# MUNICIPAL CODE

# OF

# THE CITY

# OF

# APPLETON, WISCONSIN

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***Published by Order of the Common Council***

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**OFFICIALS**

**of the**

**CITY OF**

**APPLETON, WISCONSIN**

**AT THE TIME OF THIS CODIFICATION**

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***Mayor***

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Jadell K. Ferge
***City Clerk***

# PREFACE

This Code constitutes a complete recodification of the general and permanent ordinances of the City of Appleton, Wisconsin.

Source materials used in the preparation of the Code were the 1965 Code, as supplemented through January 1989, and ordinances subsequently adopted by the Common Council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1965 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order and the various sections within each chapter have been catch lined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

## *Numbering System*

The numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of Chapter 1 is numbers 1-2 and the first section of Chapter 4 is 4-1. Under this system, each section is identified with its chapter and at the same time new sections or even whole chapters can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 3-1 and 3-2 is desired to be added, such new section would be number 3-1.5. New chapters may be included in the same manner. If the new material is to be included between Chapters 12 and 13, it will be designated as Chapter 12.5. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division.

## *Indices*

The indices have been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology and still others in language generally used by local government officials and employees. There are numerous cross references within each index which stand as guideposts to direct the user to the particular item in which the user is interested.

## *Looseleaf Supplements*

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up-to-date. Subsequent amendatory legislation will be properly edited and the appropriate page or pages affected will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised sheets are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments to inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

ADOPTING ORDINANCE

ORDINANCE NO. 31-92

*An Ordinance Adopting and Enacting a New Code for the City of Appleton, Wisconsin; Providing to the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and This Ordinance Shall Become Effective.*

*The Common Council of the City of Appleton do ordain as follows:*

*Section 1*. The Code entitled "Municipal Code of the City of Appleton" published by Municipal Code Corporation consisting of Chapters 1 through 22, each inclusive, is adopted.

*Section 2*. All ordinances of a general and permanent nature on or before December 19, 1991, and not included in the Code or recognized and continued in force by reference therein, are repealed.

*Section 3*. The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

*Section 4*. Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided in this Code, the violation of any such provision of this Code or ordinance shall be punished as follows:

1. *First offense.* Any person who shall violate any provision of this Code subject to a penalty shall, upon the first conviction thereof, forfeit not less than one dollar ($1.00) nor more than two hundred dollars ($200.00) together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail.

2. *Second and subsequent offenses.* Any person found guilty of violating any provision of this Code who shall previously have been convicted of a violation of the same provision shall upon conviction thereof forfeit not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00) for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail. Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the court for violation of any ordinance of the city, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant had been released from custody, issue an execution against the property of the defendant for the forfeiture and costs. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the city from maintaining any appropriate action to prevent or remove a violation of this Code. In case the

amendment by the common council of any section of this Code for which a penalty is not provided, the general penalty as provided in this section shall apply to the section as amended. In case such amendment contains provisions for which a specified penalty other than the general penalty is provided in another section in the same chapter, the penalty so specified shall be held to relate to the amended section unless such penalty is specifically repealed therein.

In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

*Section 5*. Additions or amendments to the Code when passed in the form as to indicate the intention of the Common Council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

*Section 6*. Ordinances adopted after December 19, 1991, that amend or refer to ordinances that have been codified in this Code, shall be construed as if they amend or refer to like provisions of the Code.

*Section 7*. This ordinance shall become effective upon passage and publication.

*Passed and adopted by the Common Council this 18th day of March, 1992.*

/s/ _____
Dorothy C. Johnson
Mayor

/s/ _____
Jadell K. Ferge
City Clerk

# PART I

## Charter Ordinances

**ARTICLE I. IN GENERAL (RESERVED)**

**ARTICLE II. ELECTED OFFICIALS**
Enumeration, terms, etc. ..... 2-1
Spring primary ..... 2-2
Wards ..... 2-3
Reserved ..... 2-4

**ARTICLE III. BOARDS, COMMITTEES, COMMISSIONS**
DIVISION 1. GENERALLY
Reserved ..... 3-1 – 3-99
DIVISION 2. PLAN COMMISSION
Created ..... 3-100
Powers and duties; qualifications ..... 3-101
Membership ..... 3-102
Appointment; terms of members ..... 3-103
Citizen members; compensation of members ..... 3-104
Organization; records ..... 3-105
Reserved ..... 3-106 – 3-130
DIVISION 3. BOARD OF REVIEW
Membership; meetings; compensation of members ..... 3-131
Reserved ..... 3-132 – 3-160
DIVISION 4. RESERVED
Reserved ..... 3-161

**ARTICLE IV. DEPARTMENTS**
DIVISION 1. GENERALLY
Reserved ..... 4-1 – 4-99
DIVISION 2. HUMAN RESOURCES DEPARTMENT
Created ..... 4-100
Office of the Director of Human Resources – created ..... 4-101
Same – appointment of director ..... 4-102
Same – term ..... 4-103
Same – duties of director ..... 4-104
Reserved ..... 4-105 – 4-160
DIVISION 3. FINANCE
Duties of Director of Finance ..... 4-161
Creation of office not to affect other offices ..... 4-162

**ARTICLE V. PERSONNEL**
DIVISION 1. GENERALLY
Reserved ..... 5-1 – 5-99
DIVISION 2. WISCONSIN MUNICIPAL RETIREMENT FUND
Participation generally ..... 5-100

**ARTICLE VI. FIRE PROTECTION**
DIVISION 1. GENERALLY
Reserved ..... 6-1 – 6-99
DIVISION 2. FIRE PERMITS
Frequency of inspections in fire limits ..... 6-100

**ARTICLES VII – X. RESERVED**

**ARTICLE XI. UTILITIES**

DIVISION 1. GENERALLY

Exemption from sewage district zoning ..... 11-100

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***Editor's note--**Printed herein are the Charter Ordinances of the City of Appleton as codified in the 1965 Municipal Code of the City of Appleton as indicated in the history note following each section. Section numbers and catchlines have been added. Complete copies of each ordinance as adopted are on file in the City Clerk's Office. Style and capitalization have been made uniform. Obviously misspelled words have been corrected without notation. Words added for clarification have been added in brackets [ ]. Amendments have been included and are indicated by a history note immediately following the amended section.

**State law reference(s)--**Charter ordinances, W.S.A. §66.01.

## ARTICLE I. IN GENERAL

**(RESERVED)**

## ARTICLE II. ELECTED OFFICIALS*

### Sec. 2-1. Enumeration, terms, etc.

(a) The elected officials of the City shall consist of the Mayor, one (1) alderperson from each aldermanic district and the City Attorney.

(b) All elected City officers, except alderpersons, shall devote their entire time and attention to the business of their offices and shall not engage in any other business. The offices of all elected officials shall be in the City Hall.

(c) The Mayor and City Attorney shall hold their office for four (4) years effective with the new terms of the office in the year 1968.

(d) The City Assessor shall be appointed by the Mayor and confirmed by the Common Council. The City Assessor shall hold office for an indefinite term subject to removal for cause by a three-quarter (3/4) vote of all the members of the Council.

(e) The City Clerk shall be appointed by the Mayor and confirmed by the Common Council. The City Clerk shall hold office for an indefinite term subject to removal for cause by a three-quarter (3/4) vote of all the members of the Council.
(Code 1965, §1.02, Ord 54-04, §1, 6-1-08; Ord 45-11, §1, 4-18-11)
***Cross references –** Elections, §2-391 et seq. officers and employees, §2-216 et seq.

### Sec. 2-2. Spring primary.

A spring primary shall be held for the nomination of candidates for City office whenever three (3) or more candidates file nomination papers for any City office.
(Ord 3-08, §1, 4-11-08)

**Editor's note –** Ord 133-94, §1, adopted Nov. 2, 1994, repealed §2-2, which pertained to salary. Ord 3-08 adopted a new §2-2, which became effective on April 11, 2008.

**Editor's Note** – Ord 98-15, §1, adopted January 9, 2016 removed all references to polling places for individual wards. A list of polling places is on file with the City Clerk's Office.

### Sec. 2-3. Wards.

The City shall be divided into fifty-nine (59) wards, as follows:

(1) ***Ward 1.*** The first ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of College Avenue and Richmond Street and being the point of beginning; thence North on Richmond Street to Atlantic Street; thence East on Atlantic Street to Drew Street; thence South on Drew Street to College Avenue; thence West on College Avenue to the point of beginning.

(2) ***Ward 2.*** The second ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Atlantic Street and Richmond Street and being the point of beginning; thence North on Richmond Street to Parkway Boulevard; thence East on Parkway Boulevard to Oneida Street; thence South on Oneida Street to Wisconsin Avenue; thence East on Wisconsin Avenue to Drew Street; thence South on Drew Street to Atlantic street; thence West on Atlantic Street to the point of beginning.

(3) ***Ward 3.*** The third ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Franklin Street and Drew Street and being the point of beginning; thence North on Drew Street to Wisconsin Avenue; thence East on Wisconsin Avenue to Ballard Road; thence South on Ballard Road and the Southerly extension thereof to the main channel of the Fox River; thence Southwesterly along the main channel of the Fox River to the College Avenue Bridge; thence Northwesterly and West along the College Avenue Bridge and College Avenue to Rankin Street; thence North on Rankin Street to Washington Street; thence West on Washington Street to Union Street; thence North on Union Street to Franklin Street; thence West on Franklin Street to the point of beginning.

(4) ***Ward 4.*** The fourth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Wisconsin Avenue and Randall Avenue and being the point of beginning; thence Northeasterly on Randall Avenue to McDonald Street; thence North on McDonald Street to Marquette Street; thence East on Marquette Street

to Ballard Road; thence South on Ballard Road to Richard Street; thence Northeasterly on Richard Street to the corporate limits; thence South along the corporate limits to Wisconsin Avenue; thence Southwesterly and West on Wisconsin Avenue to the point of beginning.

(5) ***Ward 5.*** The fifth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Green Grove Road and Hammond Avenue and being the point of beginning; thence East on Hammond Avenue to the Corporate limits; thence East and South along the corporate limits to the main channel of the Fox River; thence Westerly along the main channel of the Fox River to the corporate limits; thence North along the corporate limits to the point of beginning.

(6) ***Ward 6.*** The sixth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Forest Street and Buchanan Street and being the point of beginning; thence North and Northwest on Buchanan Street to Newberry Street; thence Northeasterly on Newberry Street to the Northerly extension of the West line of tax parcel No. 31-4-5576-00; thence South along said extension and also the West line of said tax parcel No. 31-4-5576-00 to the Southwesterly corner thereof; thence Northeasterly 131 feet m/l along the Southeasterly line of said tax parcel No. 31-4-5576-00 to the Southeasterly corner thereof and also the West line of Certified Survey Map No. 494; thence South 171.63 feet m/l along the West line of said Certified Survey Map No. 494 to the Southwesterly corner thereof; thence Northeasterly along the Southeasterly line of said Certified Survey Map No. 494 to the Southeasterly corner thereof; thence North along the East line of said Certified Survey Map No. 494 to the Southeasterly line of Newberry Street; thence Northeasterly along the Southeasterly line of Newberry Street to Marcella Street and the corporate limits; thence South along the corporate limits to College Avenue; thence West on College Avenue to Kensington Drive; thence South on Kensington Drive to Forest Street; thence West on Forest Street to the point of beginning. Excepting all that land along Newberry Street not currently within the corporate limits.

(7) ***Ward 7.*** The seventh ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of John Street and Weimer Street and being the point of beginning; thence North on Weimar Street to Forest Street; thence East on Forest Street to Kensington Drive; thence North on Kensington Drive to College Avenue; thence East on College Avenue to the corporate limits; thence Southerly and Easterly along the corporate limits to the Northeast corner of Calumet Street and Coop Road; thence Southerly along the corporate limits to the center of Calumet Street; thence West along Calumet Street to Kensington Drive; thence North and Northwesterly on Kensington Drive to Rail Road; thence Southwesterly on Rail Road to Chickadee Lane; thence Northwesterly on Chickadee Lane to Bona Avenue; thence West on Bona Avenue to Midpark Drive; thence South and Southwesterly on Midpark Drive to John Street; thence Northwesterly on John Street to the point of beginning.

(8) ***Ward 8.*** The eighth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of the Oneida Street Bridge and the main channel of the Fox River and being the point of beginning; thence Northwesterly on the Oneida Street Bridge and Oneida Street to Appleton Street; thence North on Appleton Street to College Avenue; thence East on College Avenue to Drew Street; thence North on Drew Street to Franklin Street; thence East on Franklin Street to Union Street; thence South on Union Street to Washington Street; thence East on Washington Street to Rankin Street; thence South on Rankin Street to College Avenue; thence East and Southeasterly on College Avenue and the College Avenue Bridge to the main channel of the Fox River; thence Southwesterly, Northwesterly and then Southwesterly along the main channel of the Fox River to the point of beginning.

(9) ***Ward 9.*** The ninth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of the College Avenue Bridge and the main channel of the Fox River and being the point of beginning; thence Northeasterly along the main channel of the Fox River to the East line of Section 25, T.21N., R.17E.; thence South along the East line of said Section 25 to Weimar Court; thence West, Southwesterly and South on Weimar Court to Newberry Street; thence East and Northeasterly on Newberry Street to Buchanan Street; thence Southeasterly and South on Buchanan Street to Forest Street; thence West on

Forest Street to Weimar Street; thence South on Weimar Street to John Street; thence Northwesterly on John Street to College Avenue; thence Northwesterly on College Avenue and the College Avenue Bridge to the point of beginning.

(10) ***Ward 10.*** The tenth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of the Lawe Street Bridge and the main channel of the Fox River and being the point of beginning; thence Southeasterly and Northeasterly along the main channel of the Fox River to the College Avenue Bridge; thence Southeasterly on the College Avenue Bridge and College Avenue to John Street; thence Southeasterly on John Street to Emmers Drive; thence Southwesterly and West on Emmers Drive to Schaefer Street; thence North on Schaefer Street to Fremont Street; thence West on Fremont Street to East Street; thence North and Northwesterly on East Street to South River Street; thence Southwesterly and West on South River Street to Lawe Street; thence North and Northwesterly on Lawe Street and the Lawe Street Bridge to the point of beginning.

(11) ***Ward 11.*** The eleventh ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Calumet Street and Schaefer Street and being the point of beginning; thence North on Schaefer Street to Emmers Drive; thence East and Northeasterly on Emmers Drive to John Street; thence Southeasterly on John Street to Midpark Drive; thence Northeasterly and North on Midpark Drive to Bona Avenue; thence East on Bona Avenue to Chickadee Lane; thence Southeasterly on Chickadee Lane to Rail Road; thence Northeasterly on Rail Road to Kensington Drive; thence Southerly on Kensington Drive to Calumet Street; thence West on Calumet Street to Schaefer Street and the point of beginning.

(12) ***Ward 12.*** The twelfth ward shall include and contain all that territory lying within the following confines: Commencing at the intersection of the corporate limits and Lake Park Road and being the point of beginning; thence North on Lake Park Road to County Highway "KK" (Calumet Street); thence East on County Highway "KK" (Calumet Street) to the corporate limits; thence clockwise along the corporate limits to Lake Park Road and the point of beginning. Excepting all that land along Plank Road (County Highway "AP") and Lake Park Road not currently within the corporate limits.

(13) ***Ward 13.*** The thirteenth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Roeland Avenue and Telulah Avenue and being the point of beginning; thence North on Telulah Avenue to Taft Avenue; thence West on Taft Avenue to Fountain Avenue; thence North on Fountain Avenue to Harding Drive; thence West on Harding Drive to Walden Avenue; thence North on Walden Avenue to Coolidge Avenue; thence East on Coolidge Avenue to Telulah Avenue; thence Northwesterly on Telulah Avenue to Calumet Street; thence East on Calumet Street to Lake Park Road; thence South on Lake Park Road to Dietzen Drive; thence Southwesterly on Dietzen Drive to Matthias Street; thence Southerly on Matthias Street to Schaefer Circle; thence Westerly on Schaefer Circle to Schaefer Street; thence Southerly on Schaefer Street to Roeland Avenue; thence West on Roeland Avenue to the point of beginning.

(14) ***Ward 14.*** The fourteenth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Orchard Blossom Drive and Telulah Avenue and being the point of beginning; thence Northwesterly and North on Telulah Avenue to Roeland Avenue; thence East on Roeland Avenue to Schaefer Street; thence Northerly on Schaefer Street to Schaefer Circle; thence Easterly on Schaefer Circle to Matthias Street; thence Northerly on Matthias to Dietzen Drive; thence Northeasterly on Dietzen Drive to Lake Park Road; thence South on Lake Park Road to the corporate limits; thence continue in a clockwise direction along the corporate limits to Christopher Court; thence North on Christopher Court to Orchard Blossom Drive; thence West on Orchard Blossom Drive to the point of beginning. Excepting all that land along Orchard Blossom Drive, Lake Park Road and Midway Road not currently within the corporate limits.

(15) ***Ward 15.*** The fifteenth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Northland Avenue and the corporate limits in the SW ¼ of Section 15, T.21N., R.17E. and being the point of beginning; thence North and then clockwise along the corporate limits to U.S.H. "41"; thence East on U.S.H. "41" to the East line of the NW ¼ of Section 14, T.21N., R.17E.; thence South along

the East line of the NW ¼ of said Section 14 to the corporate limits; thence West and then continue in a clockwise direction along the corporate limits to Northland Avenue; thence East on Northland Avenue to Oneida Street; thence South on Oneida Street to Marquette Street; thence West on Marquette Street to Division Street; thence South on Division Street to Glendale Avenue; thence West on Glendale Avenue to Richmond Street; thence North on Richmond Street to Northland Avenue; thence West on Northland Avenue to the point of beginning.

(16) ***Ward 16.*** The sixteenth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Northland Avenue and the corporate limits in the SE ¼ of Section 14, T.21N., R.17E. and being the point of beginning; thence North and then continue in a clockwise along the Corporate limits to the East line of the NW ¼ of said Section 14; thence North along the East line of the NW ¼ of said Section 14 to U.S.H. "41"; thence East on U.S.H. "41" to Meade Street; thence South on Meade Street to Northland Avenue; thence West on Northland Avenue to the point of beginning.

(17) ***Ward 17.*** The seventeenth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Northland Avenue and Meade Street and being the point of beginning; thence North on Meade Street to Capitol Drive; thence East on Capitol Drive to Ballard Road; thence South on Ballard Road to Northland Avenue; thence West on Northland Avenue to the point of beginning.

(18) ***Ward 18.*** The eighteenth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Capitol Drive and Meade Street and being the point of beginning; thence North on Meade Street to U.S.H. "41"; thence East on U.S.H. "41" to Ballard Road; thence South on Ballard Road to Capitol Drive; thence West on Capitol Drive to the point of beginning.

(19) ***Ward 19.*** The nineteenth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of U.S.H. "41" and the corporate limits in the NE ¼ of Section 15, T.21N., R.17E. and being the point of beginning; thence North and then continue in a clockwise direction along the corporate limits to Apple Creek Road; thence Easterly along Apple Creek Road to Meade Street; thence South on Meade Street to U.S.H. "41"; thence West on U.S.H. "41" to the point of beginning. Excepting all that land along Alvin Street, Evergreen Drive and Richmond Street not currently within the corporate limits.

(20) ***Ward 20.*** The twentieth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Apple Creek Road and the Corporate limits at the West line of the NE ¼ of Section 11, T.21N., R.17E and being the point of beginning; thence North and then continue in a clockwise direction along the corporate limits to the East line of Meade Street; thence South along the East line of Meade Street 1320 feet m/l; thence West to centerline of Meade Street; thence South on Meade Street to Edgewood Drive; thence East on Edgewood Drive to the corporate limits; thence South and then continue in a clockwise direction along the corporate limits to its confluence with the North line of Melody Lane; thence East along the North line of Melody Lane to Ballard Road; thence South on Ballard Road to U.S.H. "41"; thence West on U.S.H. "41" to Meade Street; thence North on Meade Street to Apple Creek Road; thence Westerly on Apple Creek Road to the point of beginning. Excepting all that land along Schuh Road, Edgewood Drive and Meade Street not currently within the corporate limits.

(21) ***Ward 21.*** The twenty-first ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Edgewood Drive and Meade Street and being the point of beginning; thence North on Meade Street 660 feet m/l to the Westerly extension of the corporate limits; thence East and then continue in a clockwise direction along the corporate limits to Edgewood Drive; thence West on Edgewood Drive to the point of beginning.
And
Commencing at the corporate limits located at the Northwest corner of Melody Lane and Ballard Road and being the point of beginning; thence North and then in a clockwise direction along the corporate limits to Broadway Drive; thence East on Broadway Drive to Ballard Road; thence South on Ballard Road to the Southwesterly extension of the corporate limits along the Southerly line of Apple Creek Road; thence Northeasterly along

said extension to the corporate limits; thence Southerly along the corporate limits and the East line of Ballard Road to a point 660 feet m/l North of the South line the SW ¼ of Section 6, T.21N., R.18E.; thence West to Ballard Road; thence South on Ballard Road to the Easterly extension of the North line of Melody Lane; thence West to the point of beginning.

(22) ***Ward 22.*** The twenty-second ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Broadway Drive and Meade Street and being the point of beginning; thence North and continue in a clockwise direction along the corporate limits to Werner Road; thence East on Werner Road to Ballard Road; thence South on Ballard Road to Broadway Drive; thence West on Broadway Drive to the point of beginning. Excepting all that land along Ballard Road and Broadway Drive not currently within the corporate limits.

(23) ***Ward 23.*** The twenty-third ward shall include and contain all that portion of territory lying within the following confines: (Old Landfill) A parcel of land in the Town of Center, Outagamie County, Wisconsin, described as follows: The East ½ of the SE ¼, the SE ¼ of the NE ¼, of Section 33, T.22N., R.17E., and the South 300 feet of the NE ¼ of the NE ¼ of Section 33, T.22N., R.17E., lying West of the West line of the Canadian National Railroad, Outagamie County, WI.

(24) ***Ward 24.*** The twenty-fourth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Calumet Street and Walden Avenue and being the point of beginning; thence North on Walden Avenue to Fremont Street; thence East on Fremont Street to Schaefer Street; thence South on Schaefer Street to Calumet Street; thence West on Calumet Street to the point of beginning.

(25) ***Ward 25.*** The twenty-fifth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of the Olde Oneida Street Bridge and the main channel of the Fox River and being the point of beginning; thence Easterly along the main channel of the Fox River to the Lawe Street Bridge; thence Southeasterly and South along the Lawe Street Bridge and then Lawe Street to South River Street; thence East and Northeasterly on South River Street to East Street; thence Southeasterly and South on East Street to Fremont Street; thence East on Fremont Street to Walden Avenue; thence South on Walden Avenue to Calumet Street; thence West on Calumet Street to Jefferson Street; thence North on Jefferson Street to South River Street; thence West on South River Street to Olde Oneida Street; thence Northerly on Olde Oneida Street and the Olde Oneida Street Bridge to the point of beginning.

(26) ***Ward 26.*** The twenty-sixth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Sylvan Street and Carpenter Street and being and the point of beginning; thence North on Carpenter Street to Calumet Street; thence East on Calumet Street to Telulah Avenue; thence Southeasterly on Telulah Avenue to Coolidge Avenue; thence West on Coolidge Avenue to Walden Avenue; thence South on Walden Avenue to Harding Drive; thence East on Harding Drive to Fountain Avenue; thence South on Fountain Avenue to Taft Avenue; thence East on Taft Avenue to Telulah Avenue; thence South and Southeasterly on Telulah Avenue to S.T.H. "441"; thence Westerly on S.T.H. "441" to Cypress Street; thence Northerly on Cypress Street to Layton Avenue; thence West on Layton Avenue to East Street; thence North on East Street to Sylvan Street; thence West on Sylvan Street to the point of beginning.

(27) ***Ward 27.*** The twenty-seventh ward shall include and contain all that portion of territory lying within the following confines: Commencing at the Southwest corner of Section 34, T.21N., R.17E. and being the point of beginning; thence North and then continue in a clockwise direction along the corporate limits to Prospect Avenue; thence Northeasterly on Prospect Avenue to Story Street; thence North on Story Street to College Avenue; thence East on College Avenue to Memorial Drive; thence Southerly on Memorial Drive and the Memorial Drive Bridge to the main channel of the Fox River; thence Southwesterly along the main channel of the Fox River to the corporate limits and also being the South line of the Southwest ¼ of Section 34, T.21N., R.17E.; thence West along the South line of the Southwest ¼ of said Section 34 to the point of beginning.

(28) ***Ward 28.*** The twenty-eighth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Prospect Avenue and Riverdale

Drive and being the point of beginning; thence Northwesterly on Riverdale Drive to Charles Street; thence West on Charles Street to Driscoll Street; thence North on Driscoll Street to the Canadian National Railroad; thence Northeasterly along the Canadian National Railroad to the East line of the NE ¼ of Section 33, T.21N., R.17E.; thence North along the East line of the NE ¼ of said Section 34 to Whitman Avenue; thence North on Whitman Avenue to Spencer Street; thence West on Spencer Street to the Canadian National Railroad; thence Northerly along the Canadian National Railroad to College Avenue; thence East on College Avenue to Story Street; thence South on Story Street to Prospect Avenue; thence West and Southwesterly on Prospect Avenue to the point of beginning.

(29) ***Ward 29.*** The twenty-ninth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of College Avenue and the Canadian National Railroad and being the point of beginning; thence North along the Canadian National Railroad to the corporate limits; thence East and North along the corporate limits to Winnebago Street; thence East on Winnebago Street to Richmond Street; thence South on Richmond Street to College Avenue; thence West on College Avenue to the point of beginning.

(30) ***Ward 30.*** The thirtieth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Winnebago Street and the corporate limits at the East line of the Canadian National Railroad and being the point of beginning; thence North along the corporate limits to Wisconsin Avenue; thence East on Wisconsin Avenue to Summit Street; thence North on Summit Street to Parkway Boulevard; thence East on Parkway Boulevard to Richmond Street; thence South on Richmond Street to Winnebago Street; thence West on Winnebago Street the point of beginning.

(31) ***Ward 31.*** The thirty-first ward shall include and contain all that portion of territory lying within the following confines: Commencing at the Southwest corner of Oakwood Heights Plat and being the point of beginning; thence North along the West line of said Plat to the Northwest corner; thence East along the North line of said Plat to the West line of Kerry Lane; thence North along the West line of Kerry Lane to Wilson Avenue; thence East on Wilson Avenue to the corporate limits; thence South and East along the corporate limits and the Assessor's Plat Number One (1) to Oneida Street; thence South on Oneida Street to the South line of tax parcel number 31-8-1500-00 (near the intersection of Hoover Street and Oneida Street); thence West 400.14 feet more or less along the South line of said tax parcel number 31-8-1500-00, to the Northeast corner of tax parcel number 31-8-1500-01; thence South 326.7 feet more or less along the East line of said tax parcel to the Southeast corner thereof; thence Westerly 899 feet more or less to the point of beginning.

(32) ***Ward 32.*** The thirty-second ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of the North line of State Highway "441" and Memorial Drive and being the point of beginning; thence North on Memorial Drive and following the corporate limits in a clockwise direction to the Outagamie/Winnebago County line; thence East on the Outagamie/Winnebago County line to the corporate limits at the North ¼ corner of Section 1, T.20N., R.17E.; thence South and then following the corporate limits in a clockwise direction to the West line of Oakwood Heights Plat; thence South and East along said Plat line to the East line of Kerry Lane; thence East along the South line of the Replat of Lots 42-51 of Oakwood Heights Plat and the extension thereof to the East line of tax parcel number 31-8-1500-01; thence North along the East line of said tax parcel number 31-8-1500-01, to the South line of tax parcel number 31-8-1500-00; thence East along the South line of said tax parcel number 31-8-1500-00 to Oneida Street; thence South on Oneida Street to State Highway "441" and the corporate limits; thence continuing in a clockwise direction along the corporate limits to the point of beginning.
And
The thirty-second ward shall include and contain all that portion of territory lying within the following confines: A part of Lot 2 of Certified Survey Map No. 339 as recorded in Volume 2 of Certified Survey Maps on page 339 as Document No. 845581, located in the City of Appleton, Winnebago and Outagamie County, Wisconsin, described as follows: All that part of said Lot 2 within Winnebago County.

(33) ***Ward 33.*** The thirty-third ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of the South line of the Southwest ¼ of Section 34, T.21N., R.17E. and the main

channel of the Fox River and being the point of beginning; thence Northeasterly along the main channel of the Fox River to the Olde Oneida Street Bridge; thence Southeasterly on the Olde Oneida Street Bridge and then Olde Oneida Street to South River Street; thence East on South River Street to Jefferson Street; thence South on Jefferson Street to Calumet Street; thence West on Calumet Street to Oneida Street; thence West along the South line of Outagamie County to the point of beginning.

(34) ***Ward 34.*** The thirty-fourth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of the main channel of the Fox River and the Memorial Drive Bridge and being the point of beginning; thence North on the Memorial Drive Bridge and then Memorial Drive to College Avenue; thence East on College Avenue to Appleton Street; thence Southeasterly on Appleton Street to the Oneida Street Bridge; thence continue Southeasterly on the Oneida Street Bridge to the main channel of the Fox River; thence Southwesterly along the main channel of the Fox River to the point of beginning.

(35) ***Ward 35.*** The thirty-fifth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Wisconsin Avenue and the corporate limits at the East line of the Canadian National Railroad and being the point of beginning; thence North along the corporate limits to Glendale Avenue; thence East on Glendale Avenue to Bennett Street; thence South on Bennett Street to Taylor Street; thence West on Taylor Street to Summit Street; thence South on Summit Street to Parkway Boulevard; thence West on Parkway Boulevard to Mason Street; thence South on Mason Street to Wisconsin Avenue; thence West on Wisconsin Avenue to the point of beginning.

(36) ***Ward 36.*** The thirty-sixth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Glendale Avenue and the corporate limits at the East line of the Canadian National Railroad and being the point of beginning; thence North and East along the corporate limits to Northland Avenue; thence East on Northland Avenue to Richmond Street; thence South on Richmond Street to Glendale Avenue; thence West on Glendale Avenue to the point of beginning.

(37) ***Ward 37.*** The thirty-seventh ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection Marquette Street and McDonald Street and being the point of beginning; thence North on McDonald Street to Pershing Street; thence West on Pershing Street to Oakwood Court; thence North on Oakwood Court to Northland Avenue; thence East on Northland Avenue to Ballard Road; thence South on Ballard Road to Marquette Street; thence West on Marquette Street to the point of beginning.

(38) ***Ward 38.*** The thirty-eighth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Ballard Road, the Canadian National Railroad and the corporate limits and being the point of beginning; thence North on Ballard Road to a point 660 feet m/l North of the South line the SW ¼ of Section 6, T.21N., R.18E.; thence East and then continue in a clockwise direction along the corporate limits to the S ¼ of Section 6, T.21N., R.18E. and Edgewood Drive; thence East on Edgewood Drive to French Road; thence South on French Road to the corporate limits; thence continue South and in clockwise direction along the corporate limits to the point of beginning. Excepting all those lands within the above-described traverse on Evergreen Drive, Evergreen Court, Ballard Road and Edgewood Drive not within the corporate limits.

(39) ***Ward 39.*** The thirty-ninth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the W ¼ corner of Section 8, T.21N., R.18E and being the point of beginning; thence North on French Road to Edgewood Drive; thence West on Edgewood Drive to the S ¼ corner of Section 6, T.21N., R.18E. and also the corporate limits; thence North and continue in a clockwise direction along the corporate limits to the Center of said Section 8; thence West along the South line of the NW ¼ of said Section 8 to the point of beginning. Excepting all those lands within the above-described traverse on French Road not within the corporate limits.

And

Commencing at the intersection of the Northerly extension of the East line of Lanser Lane, the corporate limits and Broadway Drive; thence East on Broadway Drive to the corporate limits; thence South and continue in a clockwise direction along

the corporate limits to the point of beginning.

(40) ***Ward 40.*** The fortieth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the NW corner of Section 6, T.21N., R.18E. and being the point of beginning; thence East along the North line of the NW ¼ of said Section 6, 914 feet m/l to the corporate limits; thence continue along the corporate limits in a clockwise direction to a point 33 feet East of the centerline of Ballard Road; thence West 33 feet to the centerline of Ballard Road; thence North on Ballard Road the point of beginning.

(41) ***Ward 41.*** The forty-first ward shall include and contain all that portion of territory lying within the following confines: Commencing at the SW corner of Section 31, T.22N., R.18E. and being the point of beginning; thence North along the West line of said Section 31 and then the corporate limits and continue in a clockwise direction along the corporate limits to the East line of Outagamie County Certified Survey Map No. 5664; thence South along the East line of Certified Survey Map No. 5664, 660 feet m/l to the Easterly extension of the corporate limits; thence West 60.04 feet along said extension to the corporate limits; thence West along the corporate limits and continue in a clockwise direction along the corporate limits to the South line of SW ¼ of Section 31, T.22N., R.18E., thence West along the South line of SW ¼ of said Section 31 to the point of beginning.

(42) ***Ward 42.*** The forty-second ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Grant Street and Meade Street and being the point of beginning; thence North on Meade Street to Northland Avenue; thence East on Northland Avenue to Oakwood Court; thence South on Oakwood Court to Pershing Street; thence East on Pershing Street to McDonald Street; thence South on McDonald Street to Randall Avenue; thence Southwesterly on Randall Avenue to Wisconsin Avenue; thence West on Wisconsin Avenue to Viola Street; thence North on Viola Street to Grant Street; thence West on Grant Street to the point of beginning.

(43) ***Ward 43.*** The forty-third ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Glendale Avenue and Division Street and being the point of beginning; thence North on Division Street to Marquette Street; thence East on Marquette Street to Oneida Street; thence North on Oneida Street to Northland Avenue; thence East on Northland Avenue to Meade Street; thence South on Meade Street to Glendale Avenue; thence West on Glendale Avenue to Oneida Street; thence North on Oneida Street to Glendale Avenue; thence West on Glendale Avenue to the point of beginning.

(44) ***Ward 44.*** The forty-fourth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of S.T.H. "441" and Oneida Street and being the point of beginning; thence North on Oneida Street to Calumet Street; thence East on Calumet Street to Carpenter Street; thence South on Carpenter Street to Sylvan Avenue; thence East on Sylvan Avenue to East Street; thence South on East Street to Layton Avenue; thence East on Layton Avenue to Cypress Street; thence South on Cypress Street to S.T.H. "441"; thence Westerly on S.T.H. "441" to the point of beginning.

(45) ***Ward 45.*** The forty-fifth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Midway Road, Oneida Street and the corporate limits and being the point of beginning; thence North along the corporate to S.T.H. "441"; thence East on S.T.H. "441" to Telulah Avenue; thence Southeasterly on Telulah Avenue to Orchard Blossom Drive; thence East on Orchard Blossom Drive to Christopher Court; thence South on Christopher Court to the corporate limits; thence West and continue in a clockwise direction along the corporate limits to the point of beginning.

(46) ***Ward 46.*** The forty-sixth ward shall include and contain all that portion of territory lying within the following confines: All of the First Addition to Cedar Ridge Estates, being a part of the Southwest quarter of the Northeast ¼ of Section 8, T.20N., R.18E. and also Pine Tree Estates, being located in the Southeast ¼ of the Northwest ¼ of Section 8, Township 20 North, Range 18 East Town of Harrison, Calumet County, Wisconsin.

(47) ***Ward 47.*** The forty-seventh ward shall include and contain all that portion of territory lying within the following confines: (Water Intake Site) A parcel of land in Government Lot 4, Section 18, T20N, R18E, Town of Harrison, Calumet County, Wisconsin, described as follows: Commencing at

the intersection of the north shore of Lake Winnebago with the west line of said Government Lot 4; thence easterly, along the north shore of Lake Winnebago, 33.00' to the east line of a public road, as a point of beginning; thence continuing Easterly, along the north shore of Lake Winnebago, 160.00'; thence north, parallel with the W/L of Government Lot 4, 280.00'; thence west, at right angles to the West line of Government Lot 4, 160.00' to the East line of a public road; thence south along the East line of a public road 280.00'± to the north shore of Lake Winnebago, as the point of beginning and containing 1.0 acres of land more or less.

(48) ***Ward 48.*** The forty-eighth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Wisconsin Avenue and Mason Street and being the point of beginning; thence North on Mason Street to Parkway Boulevard; thence East on Parkway Boulevard to Summit Street; thence South on Summit Street to Wisconsin Avenue; thence West on Wisconsin Avenue to the point of beginning.

(49) ***Ward 49.*** The forty-ninth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Parkway Boulevard and Summit Street and being the point of beginning; thence North on Summit Street to Taylor Street; thence East on Taylor Street to Bennett Street; thence North on Bennett Street to Glendale Avenue; thence East on Glendale Avenue to Richmond Street; thence South on Richmond Street to Parkway Boulevard; thence West on Parkway Boulevard to the point of beginning.

(50) ***Ward 50.*** The fiftieth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Parkway Boulevard and Richmond Street and being the point of beginning; thence North on Richmond Street to Glendale Avenue; thence East on Glendale Avenue to Division Street; thence South on Division Street to Parkway Boulevard; thence West on Parkway Boulevard to the point of beginning.

(51) ***Ward 51.*** The fifty-first ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Parkway Boulevard and Division Street and being the point of beginning; thence North on Division Street to Glendale Avenue; thence East on Glendale Avenue to Oneida Street; thence South on Oneida Street to Glendale Avenue; thence East on Glendale Avenue to Meade Street; thence South on Meade Street to Wisconsin Avenue; thence West on Wisconsin Avenue to Oneida Street; thence North on Oneida Street to Parkway Boulevard; thence West on Parkway Boulevard to the point of beginning.

(52) ***Ward 52.*** The fifty-second ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Wisconsin Avenue and Meade Street and being the point of beginning; thence North on Meade Street to Grant Street; thence East on Grant Street to Viola Street; thence South on Viola Street to Wisconsin Avenue; thence West on Wisconsin Avenue to the point of beginning.

(53) ***Ward 53.*** The fifty-third ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of the main channel of the Fox River and the Southerly extension of Ballard Avenue and being the point of beginning; thence North along said Southerly extension and then Ballard Road to Wisconsin Avenue; thence Northeasterly on Wisconsin Avenue to the corporate limits; thence South and continue in a clockwise direction along the corporate limits to the main channel of the Fox River; thence Westerly along the main channel of the Fox River to the point of beginning.

(54) ***Ward 54.*** The fifty-fourth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Newberry Street and Weimar Court and being the point of beginning; thence North and then Northeasterly and East on Weimar Court to the East line of the of Section 25, T.21N., R.17E., thence North along the East line of said Section 25 to the main channel of the Fox River; thence Northeasterly along the main channel of the Fox River to the East line of Section 29, T.21N., R.18E.; thence South along the East line of said Section 29 to the Southerly line of Newberry Street; thence Southwesterly along the Southerly line of Newberry Street to the Northeasterly corner of Certified Survey Map No. 494; thence South along the East line of said Certified Survey Map No. 494 to the Southeast corner thereof; thence Southwesterly along the Southeasterly line of said Certified Survey Map No. 494 to the Southwesterly corner thereof;

thence North 171.63 feet m/l along the West line of said Certified Survey Map No. 494 to the Southeasterly corner of tax parcel No. 31-4-5576-00; thence Southwesterly 131 feet m/l along the Southeasterly line of said tax parcel No. 31-4-5576-00 to the Southwesterly corner thereof; thence North along the West line of said tax parcel no. 31-4-5576-00 and the Northerly extension thereof to Newberry Street; thence Southwesterly and West on Newberry Street to the point of beginning.

(55) ***Ward 55.*** The fifty-fifth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of North line of Prospect Avenue, the corporate limits and the West line of Willow Glen Subdivision and being the point of beginning; thence North and then continue in a clockwise direction along the corporate limits to Whitman Avenue; thence South on Whitman Avenue and then continue South along the East line of the NE ¼ of Section 33, T.21N., R.17E. to the Canadian National Railroad; thence Southwesterly on the Canadian National Railroad to Driscoll Street; thence South on Driscoll Street to Charles Street; thence East on Charles Street to Riverdale Drive; thence Southwesterly and Southeasterly on Riverdale Drive to Prospect Avenue and the corporate limits; thence Southwesterly and then continue in a clockwise direction along the corporate limits to the point of beginning.

(56) ***Ward 56.*** The fifty-sixth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of the South line of College Avenue, the West line of Lilas Drive and the corporate limits and being the point of beginning; thence North along the corporate limits to College Avenue; thence East 3900 feet m/l on College Avenue to the Canadian National Railroad; thence South and Southwesterly along the Canadian National Railroad to Spencer Street and also the corporate limits; thence West and continue in a clockwise direction along the corporate limits to the point of beginning.

(57) ***Ward 57.*** The fifty-seventh ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of the College Avenue, the West line of Lilas Drive and the corporate limits and being the point of beginning; thence North and continue in a clockwise direction along the corporate limits to the Canadian National Railroad located near the East line of the SE ¼ of Section 28, T.21N., R.17E.; thence South along the Canadian National Railroad to College Avenue; thence West on College Avenue to the point of beginning.

(58) ***Ward 58.*** The fifty-eighth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the Southwest corner of Outlot 1 of Certified Survey Map No. 5664, North line of Broadway Drive and the corporate limits and being the point of beginning; thence North 1287.05 feet m/l to an angle point in the corporate limits; thence East 60.04 feet m/l to the East line of said Outlot 1; thence South along the East line of said Outlot 1 to Broadway Drive; thence West to the South extension of the West line of said Outlot 1; thence North along said extension to the point of beginning.

(59) ***Ward 59.*** A part of Government Lots 3 and 4 of Section 29, Township 21 North, Range 18 East, City of Appleton, Outagamie County, Wisconsin, containing 1.37 Acres of land m/l and being further described by: Commencing at a meander corner in the East line of Section 29 said corner located in Newberry Street (aka Kimberly Avenue, aka C.T.H. "Z") and the Northerly extension of the centerline of Marcella Street; Thence Southerly 35.6 feet m/l along the East line of Section 29 to the Northeasterly extension of the Southerly line of Newberry Street; Thence Southwesterly 43.12 feet m/l along the Northeasterly extension of Newberry Street to the West line of Marcella Street; Thence continue Southwesterly 875.8 feet m/l along said extension and said Southerly line to the East line of Government Lot 3 of said Section 29; Thence continue Southwesterly 215.49 feet along the Southerly line of Newberry Street to the East line of lands described in Jacket 11019 Image 48 as Document No. 999489 and being the point of beginning; Thence Southerly 208.7 feet parallel to the East line of said Government Lot 3 to the North line of Lot 1 of Certified Survey Map No. 382; Thence deflecting 68°13'49" m/l Westerly and continuing 112.1 feet m/l along the Northerly line of Lot 1 of said Certified Survey Map No. 382; Thence deflecting 4°57'02" m/l Northerly and continuing 195.36 feet m/l along the Northerly line of said Lot 1 to the West line of lands described in Jacket 4811, Image 26 as Document 849251 of the Outagamie County Register of Deeds Office; Thence deflecting 106°20'46" m/l Northerly and continuing 124.11

feet m/l along the West line of lands in said Jacket 4811, Image 26 of the Outagamie County Register of Deeds Office; Thence deflecting 17°21'36" Westerly and continuing 62.00 feet m/l along the West line of lands in said Jacket 4811, Image 26 of the Outagamie County Register of Deeds Office to the Southerly line of Newberry Street; Thence Northeasterly 334.32 feet m/l along the Southeasterly line of Newberry Street to the point of beginning.

(Code Ord 70-81, §1, 8-5-81; Ord 62-91, §1, 8-7-91; Ord 80-91, §1, 8-21-91; Ord 135-91, §1, 12-4-91; Ord 138-96, §1, 12-18-96; Ord 41-01, 1-22-01; Ord 161-01, §1, 9-17-01; Ord 199-01, §1, 11-12-01, Ord 1-07, §1, 3-9-07; Ord 111-07, §1, 9-6-07; Ord 157-07, §1, 1-20-08; Ord 140-09, §1, 10-24-09; Ord 49-10, §1, 4-9-10; Ord 127-10, §1, 10-25-10; Ord 130-10, §1, 11-8-10; Ord 33-11, §1, 3-29-11; Ord 214-11, §1, 1-1-12 (redistricting); Ord 98-15, §1, 1-9-16 (removing polling places))

**Sec. 2-4. Reserved.**

## ARTICLE III. BOARDS, COMMITTEES, COMMISSIONS*

### DIVISION 1. GENERALLY

**Secs. 3-1 – 3-99. Reserved.**

### DIVISION 2. PLAN COMMISSION

**Sec. 3-100. Created.**

There is hereby created a Plan Commission.
(Code 1965, §1.04(7)(a))

**Sec. 3-101. Powers and duties; qualifications.**

The Plan Commission shall have the powers and duties and qualifications as set forth in this division and in W.S.A. §62.23.
(Code 1965, §1.04(7)(a))

**Sec. 3-102. Membership.**

The Plan Commission shall consist of the Mayor, who shall be the presiding officer, the Director of Public Works or designee, one (1) member of the Common Council and the four (4) citizen members. The City Attorney or designee shall serve as an alternate in the event a quorum is needed.
(Code 1965, §1.04(7)(b); Ord 60-96, §1, 7-2-96)

**Sec. 3-103. Appointment; terms of members.**

(a) The Mayor shall appoint the citizen members of the Plan Commission subject to confirmation by the Common Council for a period of three (3) years beginning on May 1. No citizen shall be eligible for reappointment after serving two (2) consecutive three- (3-) year terms.

(b) The Common Council shall elect one (1) of its members to the Plan Commission for a term of one (1) year beginning on May 1 of each year, by a two-thirds (2/3) vote of the members of the Common Council.
(Code 1965, §1.04(7)(c), (d); Ord 65-97, §1, 7-17-97, Ord 33-03, §1, 2-25-03)

**Sec. 3-104. Citizen members; compensation of members.**

The citizen members of the Plan Commission shall be persons of recognized experience and qualification. No member of said [plan] commission shall receive any compensation for his services as such a member. Citizen members shall take the official oath required by the Wisconsin Statutes, which shall be filed with the City Clerk.
(Code 1965, §1.04(7)(e))

**Sec. 3-105. Organization; records.**

The Plan Commission shall organize by the election of a vice-chairman and such other officers as may in its judgment be necessary. The Plan Commission shall designate a staff member of the Department of Community

Development other than the director as recording secretary. The Plan Commission shall keep a written record of its proceedings to include all actions taken. The Plan Commission shall report to the Common Council all actions taken requiring approval by the Common Council. Four (4) members shall constitute a quorum.
(Code 1965, §1.04(7)(e); Ord 136-96, §1, 12-18-96)
***Code cross reference** – Boards, commissions, §2-51 et seq.
****Code cross reference** – Subdivisions, Ch. 17.

**Secs. 3-106 – 3-130. Reserved.**

## DIVISION 3. BOARD OF REVIEW*

**Sec. 3-131. Membership; meetings; compensation of members,**

(a) The Board of Review shall consist of the Mayor, City Clerk, three (3) Alderpersons and three (3) citizen members. The Alderpersons and citizen members shall be appointed annually by the Mayor on or before the first regular meeting of the Common Council held in the month of April.

(b) The Board shall meet during the thirty (30) day period beginning the second Monday of May of each year. A majority shall constitute a quorum.

[(c) The compensation of board members shall be determined annually by the Finance Committee and approved by the Common Council.]
(Code 1965, §1.04(6); Ord 84-08, §1, 5-27-08; Ord 73-10, §1, 7-11-10; Ord 79-10, §1, 7-24-10; Ord 126-11, §1, 7-9-11)

**Secs. 3-132 – 3-160. Reserved.**

## DIVISION 4. RESERVED**

**Sec. 3-161. Reserved.**

(Code 1965, §1.04(1); Ord 113-92, §1, 10-21-92; Ord 163-93, §1, 10-19-93, Ord 97-01, 1, 5-16-01; Ord 84-08, §1, 5-27-08; Ord 62-09,§1, 7-10-09; Ord 74-10, §1, 7-11-10; Ord 127-11, §1, 7-9-11; Ord 35-12, §1, 5-2-12; Ord 14-13, §1, 7-8-13)

**State law reference(s)** – Public records, W.S.A. §19.21

***Code cross reference** – Boards, commissions, §2-51 et seq.

****Code cross reference** – Streets, sidewalks and other public places, ch. 16; utilities, ch. 20.

**State law reference(s)** – Board of Public Works, W.S.A. §62.14.

***Editor's Note*** Ord 14-13 repealed the ordinance relating to the Board of Public Works with all previously assigned duties to the Board of Public Works now assigned to the Finance Committee.

## ARTICLE IV. DEPARTMENTS*

## DIVISION 1. GENERALLY

**Sec. 4-1 – 4-99. Reserved.**

## DIVISION 2. HUMAN RESOURCES DEPARTMENT**

### Sec. 4-100. Created.

There is hereby created a Department of Human Resources in the City of Appleton, to be under the supervision of a Director of Human Resources, with such other personnel as is needed to fulfill the functions of the Department.
(Ch. Ord 56-65, §1, (1) 8-5-65)

### Sec. 4-101. Office of the director of human resources – created.

The office of the Director of Human Resources is hereby created, pursuant to §62.09(1)(a) Wisconsin Statutes, and the manner of selection of said Director of Human Resources shall be hereinafter provided.
(Ch. Ord 56-65, §1 (2), 8-5-65)

### Sec. 4-102. Same –appointment of director.

The Director of Human Resources shall be appointed by the Mayor and subject to confirmation by the Common Council. Such appointment shall be on the basis of merit, training, experience, with a degree from a college or university of recognized standing and having major in personnel or public administration. Such appointment shall be made from a list provided the Mayor by the state or local civil service board under the rules of said board.
(Ch. Ord 56-65, §1(3), 8-5-65)

### Sec. 4-103. Same – term.

The Director of Human Resources shall hold office for an indefinite period of time, subject to removal for cause by a simple majority of the Common Council. The term "cause" as herein used is defined as inefficiency, negligence of duty, official misconduct or malfeasance in office or moral turpitude.
(Ch. Ord 56-65, §1(4), 8-5-65)

### Sec. 4-104. Same – duties of director.

The Director of Human Resources shall be under the jurisdiction of the Human Resources Committee and shall perform such duties as the job classification specifies or as the Council directs.
(Ch. Ord 56-65, §1(5), 8-5-65; Ord 84-08, §1, 5-27-08; Ord 75-10, §1, 7-11-10; Ord 128-11, §1, 7-9-11)
***Cross reference** – Departments, §2-316 et seq.
****Cross reference** – Director of administrative services, personnel, §2-231, et seq.

### Secs. 4-105 – 4-160. Reserved.

## DIVISION 3. FINANCE*

### Sec. 4-161. Duties of director of finance.

The duties of the Director of Finance shall be those set forth in the Wisconsin Statutes for comptrollers, §62.09(10) and all duties involving financial matters set forth in the ordinance of the City of Appleton, heretofore performed by the City Clerk-Comptroller, and all duties of the Wisconsin Statutes for City treasurer set forth in Wisconsin Statues, §62.09(9) and the ordinances of the City of Appleton. Any reference to City treasurer in the Appleton Municipal Code shall mean Director of Finance. These duties shall include budget preparation, accounting, internal auditing, payroll, assessments, maintenance of all financial and accounting records and provide such reports as are necessary or required by the Common Council. He shall also be purchasing agent for the City. The Council may from time to time prescribe other duties.
(Ch. Ord of 9-14-83, §3)

### Sec. 4-162. Creation of office not to affect other offices.

The creation of this office shall not infringe upon the statutory duties of the City Clerk as prescribed in the Wisconsin Statutes.
(Ch. Ord 9-14-83, §4)
**Cross reference** – Duties of chief finance officer, §2-248.

## ARTICLE V. PERSONNEL

## DIVISION 1. GENERALLY

### Secs. 5-1 – 5-99. Reserved.

***Cross reference** – Chief finance officer, §2-246 et seq. Taxation and finance, ch. 18.

## DIVISION 2. WISCONSIN MUNICIPAL RETIREMENT FUND

**Sec. 5-100. Participation generally.**

(a) Pursuant to §66.90 of the Wisconsin Statutes, the City of Appleton hereby elects to include eligible City personnel under the provisions of the Wisconsin Municipal Retirement Fund in accordance with terms thereof.

(b) Election is hereby made to provide prior service credits at rates equal to two (2) times the rates of municipality credits for current service, to be applicable to employees as defined by §66.90 of the Wisconsin Statutes who are employed by the City of Appleton on the effective date of this ordinance.

(c) Upon the final enactment of this ordinance, the City Clerk shall submit a certified notice of the election made hereunder to the board of trustees of the Wisconsin Municipal Retirement Fund. Such notice of election shall (1) be in writing; (2) indicate the date of results of such election; (3) include a certification of the prior service contribution rate selected as being applicable to the employees of the municipality; (4) by officially certified by the clerk of the municipality.

(d) The effective date of participation shall be January 1, 1946 unless the board of trustees of the Wisconsin Municipal Retirement Fund shall defer such effective date pursuant to Section 66.90 of the Wisconsin Statutes.
(Ch. Ord of 4-4-45)

## ARTICLE VI. FIRE PROTECTION.

### DIVISION 1. GENERALLY

**Secs. 6-1 -- 6-99. Reserved.**

### DIVISION 2. FIRE PERMITS

**Sec. 6-100. Frequency of inspections in fire limits.**

The City hereby elects that W.S.A. §101.14(2)(c) and Wisconsin Administrative Code, ILHR 14.02 shall not apply to the City. Fire inspections of all buildings within fire limits shall be at least once in six (6) months. The fire chief may require more frequent inspections for buildings he deems as being high risks.
(Code 1965, §4.10(3))

## ARTICLES VII – X. RESERVED.

## ARTICLE XI. UTILITIES

### DIVISION 1. GENERALLY

**Sec. 11-100. Exemption from sewage district zoning.**

The whole of §66.20 and all of the subsections and subdivisions thereof as adopted, amended and in force at the date of enactment and relating to the organization of metropolitan sewerage districts shall not apply to the City of Appleton, Wisconsin, and upon passage of this ordinance, the whole of said statute and any part thereof shall cease to be in effect on the City of Appleton, Wisconsin.
(Ch. Ord of 11-15-33)

*(The next page is 75.)*

# PART II

# MUNICIPAL CODE

## Chapter 1

## General Provisions

How code designed and cited ..... 1-1
Definitions and rules of construction ..... 1-2
Catchlines of sections ..... 1-3
References to chapters or sections ..... 1-4
History notes ..... 1-5
References and editor's notes ..... 1-6
Provisions considered as continuation of existing ordinances ..... 1-7
Code does not affect prior offenses, rights, etc. ..... 1-8
Effect of repeals ..... 1-9
Certain ordinances not affected by code ..... 1-10
Effect of amendments to code ..... 1-11
Supplementation of code ..... 1-12
Clerk to file amendments incorporated by reference ..... 1-13
Conflicting provisions ..... 1-14
Severability of parts of code ..... 1-15
General penalty ..... 1-16
Citations for violations of ordinances – generally ..... 1-17
- Citation method elected ..... 1-17(a)
- Contents of citation ..... 1-17(b)
- Issuance ..... 1-17(c)
- Violator's options; procedure on default ..... 1-17(d)
- Citation procedure not exclusive ..... 1-17(e)

Same – Schedule of deposits ..... 1-18
Timeliness of remonstrances ..... 1-19
Future ordinances ..... 1-20

**Sec. 1-1. How code designed and cited.**

The ordinances embraced in the following chapters and sections shall constitute and be designated the Municipal Code of the City of Appleton and may be so cited.
(Code 1965, §25.08)
**State law reference(s)** – Passage and publication of ordinances, W.S.A. §66.035.

**Sec. 1-2. Definitions and rules of construction.**

In the construction of this code, and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Common Council.

***Charter.*** The word "charter" shall mean the charter ordinances of the City of Appleton, Wisconsin, printed as part I of this volume.

***City.*** The word "City" shall mean the City of Appleton, Wisconsin, and shall extend to and include its several officers, agents and employees.

***City officer, employee, department, board, commission or other agency.*** Whenever any officer, employee, department, board, commission, or other agency is referred to by title only, such reference shall be construed as if followed by the words "of the City of Appleton, Wisconsin". Whenever, by the provisions of this code, any officer, employee, department, board, commission or other agency of the City is assigned any duty or empowered to perform any act or duty, reference to such officer, employee, department, board, commission or other agency shall mean and include such officer or any designee or authorized subordinate and shall also include the successor in function to such officer, employee, department, board, commission or agency.

***Code.*** The word "code" shall mean the Municipal Code of the City of Appleton, Wisconsin.

***Common Council.*** The terms "Common Council" and "Council" shall mean the Common Council of the City of Appleton, Wisconsin.

***Computation of time.*** In computing any period of time mentioned in the provisions of this code, the day of the act, event or default after which the designed period of time begins to run is not to be included, and the last day of the period of time begins to run is not to be included, and the last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday or holiday.

***County.*** The term "county" shall mean the County of Outagamie, Wisconsin.

***Delegation of authority.*** Whenever a provision appears requiring the head of a department or some other City officer or employee to do some act or perform some duty, it shall be construed to authorize the head of the department or other officer or employee to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

***Gender.*** The work importing either the masculine or feminine gender shall extend and be applied to both the masculine and feminine genders, and to firms, partnerships and corporations.

***Joint authority.*** Words purporting to give authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

***Highway.*** The term "highway" shall include any street, alley, highway, avenue or public place or square, bridge, viaduct, tunnel, underpass, overpass or causeway in the city dedicated or devoted to public use.

***Keeper; proprietor.*** The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs or copartnerships, whether acting by themselves or through a servant, agent or employee.

***Month.*** A word importing the singular may extend and be applied to the plural and vice versa.

***Number.*** A word importing the singular may extend and be applied to the plural and vice versa.

***Oath.*** The word "oath" shall include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed".

***Owner.*** The word "owner" applied to a building or land shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or a part of such building or land.

***Person.*** The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as individuals.

***Personal property.*** The term "personal property" includes every species of property except real property.

***Property.*** The word "property" shall include real, personal and mixed property.

***Public place.*** The term "public place" shall mean any place subject to the primary control of any public agency, including, but not limited to, any park, street, public way, cemetery, schoolyard or open space adjacent thereto and any lake or stream.

***Real property.*** The term "real property" shall include lands, tenements, and hereditaments.

***Sidewalk.*** The word "sidewalk" shall mean any portion of a street between the curbline and the adjacent property line, intended for the use of pedestrians, excluding parkways.

***Signature; subscription.*** The word "signature" or "subscription" includes a mark when the person cannot write.

***State.*** The terms "the state" and "this state" shall mean the State of Wisconsin.

***Tenant; occupant.*** The words "tenant" and "occupant" applied to a building or land shall include any person holding a written or oral lease of or who occupies the whole or part of such building or land, either alone or with others.

***Tense.*** Words used in the past or present tense include the future as well as the past and present.

***Written; in writing.*** The words "written" and "in writing" shall include any representation of words, letters, or figures, whether by printing or otherwise.

***W.S.A.*** The abbreviation "W.S.A.", whenever used in this code, shall mean the latest edition or supplement of the Wisconsin Statutes.
(Code 1965, §25.02)

**Sec. 1-3. Catchlines of sections.**

The catchlines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to the titles of such sections, nor as any part of the sections; nor, unless expressly so provided, shall they be deemed when any such sections, including the catchlines, are amended or reenacted.

**Sec. 1-4. References to chapters or sections.**

All references to chapter or sections are to the chapters and sections of this code unless otherwise specified.

**Sec. 1-5. History notes.**

The history notes appearing in parentheses after sections of this code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

**Sec. 1-6. References and editor's notes.**

References and editor's notes following certain sections are inserted as an aid and guide to the reader and are not controlling nor meant to have any legal effect.

**Sec. 1-7. Provisions considered as continuation of existing ordinances.**

The provisions appearing in this code so far as they are the same as those of the code of the City of Appleton, 1965, and of ordinances existing at the time of adoption of this code, shall be considered as a continuation thereof and not new enactments.

**Sec. 1-8. Code does not affect prior offenses, rights, etc.**

Nothing in this code or the ordinance adopting this code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this code.

**Sec. 1-9. Effect of repeals.**

(a) The repeals of an ordinance or portion of this code shall not revive any ordinance or portion of this code in force before or at the time the provision repealed took effect. The repeal of an ordinance or a portion of this code shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the provision repealed.

(b) The repeal of amendment of any section or provision of this code or of any other ordinance of the Common Council shall not:

(1) By implication be deemed to revive any ordinance not in force or existing at the time at which such repeal or amendment takes affect;

(2) Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repeals or amended, unless the privilege of repealing such obligation or privilege has been reserved by the City;

(3) Affect any offense committed or penalty or

forfeiture incurred previous to the time when any ordinance is repealed or amended, except that when any forfeiture or penalty has been mitigated by the provisions of any ordinance, such provisions shall apply to and control any judgment to be pronounced after such ordinance takes effect for any offense committed before that time;

(4) Affect any prosecution for any offense or the levy of any penalty of forfeiture pending at the time when any ordinance is repealed or amended, but the right of action shall continue and the offender shall be subject to the penalty as provided in such ordinances and such prosecution shall proceed in all respects as if such ordinance has not been repealed, except that all such proceedings had after the time of this code takes effect shall be conducted according to the provisions of this code.

(Code 1965, §25.07)

**Sec. 1-10. Certain ordinances not affected by code.**

Nothing in this code or the ordinance adopting this code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this code:

(1) Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this code;

(2) Any ordinance promising or guaranteeing the payment of money for the City or authorizing the issuance of any bonds of the City, any evidence of the City's indebtedness, or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the City;

(3) Any administrative ordinances of the City not in conflict or inconsistent with the provisions of this code;

(4) Any right or franchise granted by any ordinance;

(5) Any ordinance dedicating, naming, establishing, locating, relocating, operating, paving, widening, repairing, vacating, etc., any street or public way in the City;

(6) Any appropriation ordinance;

(7) Any ordinance levying or imposing taxes;

(8) Any ordinance prescribing through streets, parking and traffic regulations, speed limits, one-way traffic, limitations on load of vehicles, or loading zones;

(9) Any land use, zoning or rezoning ordinance or amendment to the zoning map;

(10) Any ordinance establishing and prescribing the street grades of any street in the City;

(11) Any ordinance providing for local improvements and assessment taxes therefor;

(12) Any ordinance dedicating or accepting any plat or subdivision in the City;

(13) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the City;

(14) Any ordinance establishing positions, classifying positions, or setting salaries of City officers and employees, or any personnel regulations;

(15) Any temporary or special ordinances;

(16) Any ordinance calling an election;

(17) Any ordinance authorizing street maintenance agreements;

(18) Any ordinance establishing grades, curblines and width of sidewalks in the public streets and alleys;

(19) Any ordinance regarding the lighting of streets and alleys;

(20) Any ordinance naming public grounds and parks;

(21) Any ordinance regarding the letting of contracts without bids;

(22) Any ordinance regarding the establishment of wards, ward boundaries and election precincts;

(23) Any charter ordinance unless repealed by charter ordinance;

(24) Any ordinance releasing persons from liability;

(25) Any ordinance regarding construction of public works;

(26) Any ordinance regarding water, sewer, solid waste, and electric rates, rules and regulations and sewer and water main construction.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein. All ordinances are on file in the City Clerk's Office.
(Code 1965, §25.06)

**Sec. 1-11. Effect of amendments to code.**

(a) Any and all additions and amendments to this code, when passed in such form as to indicate the intention of the Common Council to make the addition or amendment a part hereof, shall be deemed to be incorporated in this code so that reference to the code shall be understood and intended to include such additions and amendments.

(b) All ordinances passed subsequent to this code which amend, repeal or in any way affect this code may be numbered in accordance with the numbering system of this code and printed for inclusion herein. When subsequent ordinances repeal any chapter, article, division, section or subsection or any portion thereof, such repealed portions may be excluded from the code by omission from printed pages.

(c) Amendments to any of the provisions of this code may be made by amending such provisions by specific reference to the section number of this code in substantially the following language: "That Section _____ of the Municipal Code of the City of Appleton, is hereby amended to read as follows . . ." The new provisions shall then be set out in full as desired.

(d) If a new section not heretofore existing in the code is to be added, the following language may be used: "That the Municipal Code of the City of Appleton is hereby amended by adding a section to be numbered ____, which section reads as follows . . ." The new section may then be set out in full as desired.

(e) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

**Sec. 1-12. Supplementation of code.**

(a) By contract or by City personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the Common Council. A supplement to the code shall include all substantive permanent and general parts of ordinances passed by the Common Council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the code, and shall also include all amendments to the charter during the period. The pages of a supplement shall be so numbered that they will fit property into the code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this code, the codifier, meaning the person, agency, or organization authorized to prepare the supplement, may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifer may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the code printed in the supplement, and make changes in catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter", "this article", "this division", etc., as the case may be, or to "sections _____ through _____". The inserted section numbers will indicate the sections of the code which embody the substantive sections of the ordinance incorporated into the code; and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinance section inserted into the code; but in no case shall the codifier make any change in the meaning or effect of ordnance material included in the supplement or already embodied in the code.

**State law reference(s)** – Code of ordinance, W.S.A. §66.035.

**Sec. 1-13. Clerk to file documents incorporated by reference.**

Whenever in this code any standard, code, rule, regulation or other written or printed matter is adopted by reference, it shall be deemed incorporated in this code as if fully set forth herein. The City Clerk is hereby directed and

required to file, deposit and keep in his office a copy of the code, standard, rule, regulation or other written or printed matter, as adopted. Materials filed, described and kept shall be public records open for examination and proper care by any person during the City Clerk's office hours, subject to such orders or regulations which the City Clerk may prescribe for their preservation.

**Sec. 1-14. Conflicting provisions.**

If the provisions of the different chapters of this code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.
(Code 1965, §25.03(1))

**Sec. 1-15. Severability of parts of code.**

It is hereby declared to be the intention of the Common Council that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional, invalid, or unenforceable, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code.
(Code 1965, §25.03(2))

**Sec. 1-16. General penalty.**

(a) Whenever in this code or in any ordinance of the City any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided in this code, the violation of any such provision of this code or ordinance shall be punished as follows:

(1) ***First offense.*** Any person who shall violate any provision of this code subject to a penalty shall, upon the first conviction thereof, forfeit not less than one dollar ($1.00) nor more than two hundred dollars ($200.00) together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail.

(2) ***Second and subsequent offenses.*** Any person found guilty of violating any provision of this code who shall previously have been convicted of a violation of the same provision shall upon conviction thereof forfeit not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00) for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail.

(b) Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the court for violation of any ordinance of the City, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for the forfeiture and costs.

(c) Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this code shall preclude the City from maintaining any appropriate action to prevent or remove a violation of this code.

(d) In case of the amendment by the Common Council of any section of this code for which a penalty is not provided, the general penalty as provided in subsection (a) of this section shall apply to the section as amended. In case such amendment contains provisions for which a specified penalty other than the general penalty is provided in another section in the same chapter, the penalty so specified shall be held to relate to the amended section unless such penalty is specifically repealed therein.
(Code 1965, §25.05)
**Cross reference(s)** – Violations and enforcement of traffic provisions, §19-2.

**Sec. 1-17. Citations for violations of ordinances – generally.**

(a) ***Citation method elected.*** Pursuant to W.S.A. §66.0113, the City hereby elects to use the citation method of enforcement of ordinances, including those for which a statutory counterpart exists.

(b) ***Contents of citation.*** The citation shall contain the following:

(1) The name and address of the alleged violator;

(2) Factual allegations describing the alleged violation;

(3) The time and place of the offense;

(4) The section of the code or ordinance violated;

(5) A designation of the offense in such manner as can readily be understood by a person making a reasonable effort to do so;

(6) The time at which the alleged violator may appear in court;

(7) A statement which in essence informs the alleged violator that;

a. A cash deposit based on the schedule established by §1-18 may be made which shall be delivered or mailed to the Director of Finance or Clerk of Court prior to the time of the scheduled court appearance;

b. If a deposit is made, no appearance in court is necessary unless he is subsequently summoned;

c. If a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have entered a plea of no contest, and submitted to a forfeiture not to exceed the amount of the deposit, or will be summoned into court if the court does not accept the plea of no contest;

d. If no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or a warrant for the defendant's arrest, or consider the nonappearance to be plea of no contest and enter judgment or an action may be commenced to collect the forfeiture;

e. If the court finds that the violation involves an ordinance that prohibits conduct that is the same or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered.

(8) A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under subsection (b)(7) of this section has been read. Such statement shall be sent or brought with the cash deposit.

(9) Such other information as the City deemed necessary.

(c) ***Issuance.*** Any law enforcement officer, the Fire Chief, Director of Public Works and/or his/her designee and the Health Officer may issue citations authorized under this section. Citations may be issued by other persons as authorized by the code.

(d) ***Violator's options; procedure on default.*** W.S.A. §66.0113(3) relating to violator's options and procedure on default is hereby adopted and incorporated by reference.

(e) ***Citation procedure not exclusive.***

(1) Adoption of the citation method of enforcement of ordinances does not preclude the Council from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.

(2) The issuance of citation under this section shall not preclude the City or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

(Code 1965, §22.07(1), (2), (4) – (6); Ord 174-93, §1, 10-19-93; Ord 93-96, §1, 10-2-96; Ord 116-96, §1, 12-18-96; Ord 164-08, §1, 10-21-08)

**Cross reference(s)** – Violations and enforcement of traffic provisions, §19-2.

**Sec. 1-18. Same – Schedule of deposits.**

(a) The schedule for deposits differing from the amounts prescribed in §1-16 shall be listed in the Schedule of Deposits for the City of Appleton, which is adopted by referenced as though fully set forth in this chapter. The official copy of the Schedule of Deposits shall be on file in the office of the City Clerk, who shall keep the same current at all times by such revision as is required by additions, deletions, and amendments adopted by the Common Council by ordinance from time to time.

(b) Deposits shall be made in cash, money order or certified check to the Director of Finance or Clerk of the County Court, who shall provide a receipt therefore.

(Code 1965, §22.07(3); Ord 54-89, §1, 4-19-89; Ord 66-89, §1, 5-17-89; Ord 165-89, §1, 12-6-89; Ord 48-90, §1, 5-16-90; Ord 144-91, §1, 12-4-91; Ord 16-92, §1, 3-18-92; Ord 37-92, §1, 4-1-92; Ord 37-92, §1, 4-1-92; Ord 47-92, §1, 5-6-92, Ord 68-92, §1, 7-8-92; Ord 81-92, §1, 8-5-92; Ord 88-92, §1, 8-20-92; Ord 105-92, §1, 9-16-92; Ord 114-92, §1, 10-21-92; Ord 122-92, §1, 11-4-92; Ord 4-93, §1, 1-6-93; Ord 55-93, §1, 3-174-93; Ord 153-93, §1, 9-15-93; Ord 185-93, 12-1-93; Ord 1-94, §1, 1-5-94; Ord 99-94, §1, 8-3-94; Ord 5-95, §1, 2-1-95; Ord 74-95, §1, 6-21-95; Ord 93-95 and 94-95, §1, 9-20-95; Ord 50-96, §1, 6-5-96; Ord 97-96, §1, 11-6-96; Ord 60-97, §1, 6-4-97; Ord 71-97, §1, 9-3-97; Ord 43-01, 2-12-01, Ord 147-01, §1, 5-10-01, Ord 82-02, §1, 6-11-02, Ord 88-05, §1, 9-13-05; Ord 138-05, §1, 12-13-05; Ord 71-06, §1, 5-9-06; Ord 91-07, §1, 5-22-07, Ord 148-07, §1, 11-13-07; Ord 149-07, §1, 11-13-07)

**State law reference(s)** – Citations for certain ordinance

violations, W.S.A. §66.0113.

**Sec. 1-19. Timeliness of remonstrances.**

All petitions and remonstrances relating to zoning changes, special assessments, or vacations of streets and alleys shall be filed with City Clerk prior to the conclusion of the public hearing. Petitions or remonstrances will not be accepted after the conclusion of the public hearing and will be invalid for all purposes, including a change in the required vote.
(Code 1965, §22.08)

**Sec. 1-20. Future ordinances.**

Any future creations, amendments, revisions or modifications of statutes, codes and regulations incorporated in this code are intended to be made part of this code in order to secure uniform statewide enforcement of the conduct described in the incorporated statute, code or regulation.
(Ord 94-96, §1, 10-2-96)

*(The next page is 143.)*

# Chapter 2

# Administration

**ARTICLE I. IN GENERAL**
Destruction of public records ..... 2-1
Financial records ..... 2-1(a)
Utility records ..... 2-1(b)
Police records ..... 2-1(c)
Other records ..... 2-1(d)
Notice to Historical Society ..... 2-1(e)
Limitation ..... 2-1(f)
Microfilm and similar devices ..... 2-1(g)
Reserved ..... 2-2 – 2-25

**ARTICLE II. COMMON COUNCIL**
Form of government ..... 2-26
Succession of office of the Mayor ..... 2-27
Adoption of ordinances ..... 2-28
Reserved ..... 2-29 – 2-50

**ARTICLE III. BOARDS, COMMITTEES, COMMISSIONS**
DIVISION 1. GENERALLY
Reserved ..... 2-51 – 2-75
DIVISION 2. BOARD OF HEALTH
Created ..... 2-76
Membership; term of members ..... 2-77
Acceptance of office by members; organization ..... 2-78
Meetings ..... 2-79
Compensation of members ..... 2-80
Reserved ..... 2-81 – 2-120
DIVISION 3. BOARD OF ZONING APPEALS
Created ..... 2-121
Membership; compensation of members ..... 2-122
Reserved ..... 2-123 – 2-135
DIVISION 4. POLICE AND FIRE COMMISSION
Created ..... 2-136
Membership; appointment; compensation of members ..... 2-137
Records ..... 2-138
Appointments to Police and Fire Departments ..... 2-139
Reserved ..... 2-140 – 2-150
DIVISION 5. LIBRARY BOARD
Created ..... 2-151
Membership; terms of members; compensation of members ..... 2-152
Powers and duties; appointment of librarian ..... 2-153
Public library ..... 2-154
Reserved ..... 2-155 – 2-165

DIVISION 6. TRANSIT COMMISSION
Created ..... 2-166
Membership; terms of members ..... 2-167
Officers ..... 2-168
Powers and duties ..... 2-169
Finances ..... 2-170
Personnel of transit system ..... 2-171
Service area of municipally-owned transit system ..... 2-172
Reserved ..... 2-173 – 2-215

**ARTICLE IV. OFFICERS AND EMPLOYEES**
DIVISION 1. GENERALLY
Residency policy ..... 2-216
Compensation ..... 2-217
Generally ..... 2-217(a)
Mayor ..... 2-217(b)
Directors generally ..... 2-218
Reserved ..... 2-219 – 2-230
DIVISION 2. DIRECTOR OF HUMAN RESOURCES
Office created ..... 2-231
Duties ..... 2-232
Reserved ..... 2-233 – 2-239
DIVISION 3. DIRECTOR OF FINANCE
Office created ..... 2-240
Duties ..... 2-241
Term; removal from office ..... 2-242
Reserved ..... 2-243 – 2-249
DIVISION 4. HEALTH OFFICER
Office Created ..... 2-250
Qualifications ..... 2-251
Term of office; removal from office ..... 2-252
Duties ..... 2-253
Badge ..... 2-254
Acting Health Officer ..... 2-255
Reserved ..... 2-256 – 2-259
DIVISION 5. DIRECTOR OF PUBLIC WORKS
Office created ..... 2-260
Duties ..... 2-261
Reserved ..... 2-262 – 2-269
DIVISION 6. DIRECTOR OF PARKS, RECREATION AND FACILITIES MANAGEMENT
Office Created ..... 2-270
Duties ..... 2-271
Reserved ..... 2-272 – 2-279
DIVISION 7. DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT
Office created ..... 2-280
Duties ..... 2-281
Reserved ..... 2-282 – 2-289
DIVISION 8. DIRECTOR OF UTILITIES
Office created ..... 2-290
Duties ..... 2-291
Reserved ..... 2-292 – 2-299

DIVISION 9. GENERAL MANAGER OF VALLEY TRANSIT
Office created ..... 2-300
Duties ..... 2-301
Reserved ..... 2-302 – 2-309
DIVISION 10. DIRECTOR OF TECHNOLOGY SERVICES
Office created ..... 2-310
Duties ..... 2-311
Reserved ..... 2-312 – 2-319
DIVISION 11. CHIEF OF POLICE
Office created ..... 2-320
Terms, removal from office ..... 2-321
Duties ..... 2-322
Reserved ..... 2-323 – 2-329
DIVISION 12. CHIEF OF THE FIRE DEPARTMENT
Appointment ..... 2-330
Term; removal from office ..... 2-331
Duties ..... 2-322
Reserved ..... 2-333 – 2-339
DIVISION 13. LIBRARY DIRECTOR
Appointment ..... 2-340
Term; removal from office ..... 2-341
Duties ..... 2-342
Reserved ..... 2-343 – 2-349
DIVISION 14. CITY ASSESSOR
Appointment ..... 2-350
Term; removal from office ..... 2-351
Duties ..... 2-352
Reserved ..... 2-353 – 2-359
DIVISION 15. CITY ATTORNEY
Election ..... 2-360
Duties ..... 2-361
Reserved ..... 2-362 – 2-369
DIVISION 16. CITY CLERK
Appointment ..... 2-370
Term of office; removal from office ..... 2-371
Duties ..... 2-372
Reserved ..... 2-373 – 2-399

**ARTICLE V. DEPARTMENTS**
DIVISION 1. GENERALLY
Reserved ..... 2-400 – 2-419
DIVISION 2. DIRECTOR OF HUMAN RESOURCES
Created ..... 2-420
Reserved ..... 2-421 – 2-429
DIVISION 3. DEPARTMENT OF FINANCE
Created ..... 2-430
Reserved ..... 2-431 – 2-439
DIVISION 4. DEPARTMENT OF HEALTH
Created ..... 2-440
Reserved ..... 2-441 – 2-449

DIVISION 5. PUBLIC WORKS DEPARTMENT
Divisions ..... 2-450
Central Equipment Agency ..... 2-452
Reserved ..... 2-453 – 2-459
DIVISION 6. DEPARTMENT OF PARKS, RECREATION AND FACILITIES MANAGEMENT
Created ..... 2-460
Reserved ..... 2-461 – 2-469
DIVISION 7. DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
Created ..... 2-470
Reserved ..... 2-471 – 2-479
DIVISION 8. DEPARTMENT OF UTILITIES
Created ..... 2-480
Reserved ..... 2-481 – 2-489
DIVISOIN 9. VALLEY TRANSIT
Created ..... 2-490
Reserved ..... 2-491 – 2-499
DIVISION 10. DEPARTMENT OF TECHNOLOGY SERVICES
Created ..... 2-500
Reserved ..... 2-501 – 2-509
DIVISION 11. POLICE DEPARTMENT
Created ..... 2-510
Powers and duties ..... 2-511
Report to Council ..... 2-512
Police officers to wear name tag and badge ..... 2-513
Police officers not to be bail ..... 2-514
Police officer to attend Council meetings ..... 2-515
Reserved ..... 2-516 – 2-519
DIVISION 12. FIRE DEPARTMENT
Created ..... 2-520
Reserved ..... 2-521 - 529
DIVISION 13. PUBLIC LIBRARY
Created ..... 2-530
Reserved ..... 2-531 – 2-539
DIVISION 14. DEPARTMENT OF THE ASSESSOR
Created ..... 2-540
Reserved ..... 2-541 – 2-549
DIVISION 15. DEPARTMENT OF LEGAL SERVICES
Created ..... 2-550
Reserved ..... 2-551 – 2-559

**ARTICLE VI. ELECTIONS**
Opening and closing of polls ..... 2-560
Authority of City Clerk regarding elections ..... 2-561

***Cross reference(s)--**Administration and enforcement of the buildings and building regulations chapter, §4-21 et seq.; administration of the health and sanitation provisions, §7-26 et seq.; administration of the parks and recreation areas, §13-26 et seq.

**State law reference(s)--**Classes of cities, W.S.A. §62.05.

**Editor's Note**: Chapter 2 – Administration was repealed and recreated by Ordinance No. 44-12, adopted by the Appleton Common Council on June 6, 2012, published on June 11, 2012 and becoming effective on June 12, 2012.

## ARTICLE I. IN GENERAL

### Sec. 2-1. Destruction of public records.

(a) ***Financial records.*** The Director of Finance is empowered to destroy the following nonutility records under their jurisdiction after the completion of any audit by the Department of State Audit or an auditor licensed under state law; but not less than seven (7) years after payment or receipt of the sum involved in the applicable transaction:

(1) Bank statements, deposit books, slips and stubs.

(2) Bonds and coupons, after maturity.

(3) Canceled checks, duplicates and check stubs.

(4) License and permit applications, stubs and duplicates.

(5) Payroll and other time and employment records of personnel included under the state retirement fund.

(6) Receipt forms.

(7) Special assessment records.

(8) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.

(b) ***Utility records.*** The Director of Finance is empowered to destroy the following records of municipal utilities subject to regulation by the State Public Service Commission and after an audit as provided in subsection (a) of this section, but not less than two (2) years after payment or receipt of the sum involved in the applicable transaction:

(1) Water, sewer, electrical stubs and receipts of current billings.

(2) Customer's ledgers.

(3) Vouchers and supporting documents pertaining to charges not included in plant accounts.

Other utility records may be destroyed after seven (7) years with the written approval of the State Public Service Commission.

(c) ***Police records.*** The Police Department may destroy the following records of which they are the legal custodian and which are deemed obsolete by the Police Department, but not less than seven (7) years after the record was effective unless another period has been set by statute or by the State Public Records Board, then after such a shorter period. In addition, the Wisconsin Historical Society has waived the sixty- (60-) day notification period specified in Wisconsin State Statute §19.21 for the following types of police records:

(1) Traffic accident reports.

(2) Citizen contact warning tickets.

(3) Telephone line recordings.

(4) City of Appleton summonses for violation of city ordinances and all other supporting records pertaining thereto.

(5) In-car video recordings and personal recording devices.

(6) Weekly reports.

(7) Ride-along records.

(8) False alarm records.

(9) Fingerprint records and mug shots.

(10) Overtime vouchers.

(11) Daily roster/schedule.

(12) Daily alert bulletin.

(13) Master cash register receipt rolls.

(14) Offense reports/investigations.

(15) State uniform traffic citations and all other supporting records pertaining thereto.

(16) Overnight parking register.

(17) Surveillance recordings from any booking room(s) or interview room(s).

(18) Monitoring and surveillance recordings (includes traffic camera footage).

(d) ***Other records.*** Officers are empowered to destroy the following records, but not less than seven (7) years after the record was effective:

(1) Assessment rolls and related records, including record of review minutes.

(2) Contracts and papers relating thereto.

(3) Correspondence and communications.

(4) Financial reports other than annual financial reports.

(5) Insurance policies.

(6) Justice dockets.

(7) Oaths of office.

(8) Reports of boards, commissions, committees and officials duplicated in the official minutes.

(9) Resolutions and petitions.

(10) Voter record cards.

(e) ***Notice to Historical Society.*** Prior to the destruction of any public record described in this section, at least sixty (60) days' notice shall be given the State Historical Society, unless otherwise indicated.

(f) ***Limitation.*** This section does not authorize destruction of any public record after a period less than that prescribed by statute or state administrative regulations.

(g) ***Microfilm and similar devices.*** Any public record may be kept and preserved by the use of microfilm or other reproductive device. Any photographic reproduction shall be deemed an original record for all purposes if it meets the applicable standards of W.S.A. §16.61(7). Once reproduced by photographic reproduction, the original document may be destroyed or otherwise disposed of.

(Code 1965, §2.14; Ord. 5-93, §1-6-93, Ord. 13-93, §1-1-20-93, Ord 237-02, §1, 11-6-02; Ord 129-07, §1, 9-11-07, Ord 65-08, §1, 3-25-08; Ord 44-12, §1, 6-6-12; Ord 40-13, §1, 7-16-13; Ord 60-14, §1, 9-9-14)

**Cross reference(s)** – Licenses, permits and business regulations. ch. 9: utilities. ch. 20.

**State law reference(s)** – Public records. W.S.A. 19-21; destruction of public records. W.S.A. 19-21(4).

**Secs. 2-2 – 2-25. Reserved.**

## ARTICLE II. COMMON COUNCIL*

### Sec. 2-26. Form of government.

The City operates under the Mayor-Alderperson form of government.
(Code 1965, §1.01)
***Charter ordinance references –** Elected officers enumerates. §2-1; Wards. §2-3
**Cross reference(s)** – Elections –2-411, et seq.
**State law reference(s)** – Common Council. W.S.A. §62.11.

### Sec. 2-27. Succession of office of the Mayor.

The Council at its first meeting subsequent to the regular election and qualification of new members, shall choose from its members a Vice President, who in the absence of the Mayor and Council President, shall have the duties and responsibilities as indicated in §62.09(8)(e) of the Wisconsin Statutes.
(Ord 61-09, §1, 5-12-09)
**Editor's notes.** Ord 70-93, §1, adopted April 21, 1993, repealed §2-27, which pertained to aldermanic districts. Ord 61-09, effective May 12, 2009 created a new section outlining succession.

### Sec. 2-28. Adoption of ordinances.

Every proposed ordinance, on being introduced at a meeting of the Common Council, shall be referred to an appropriate committee for examination, amendment and report. The committee shall review the proposal and report the ordinance to the Common Council for its consideration. Upon approval of the proposed ordinance for adoption by the Council, the City Attorney shall draft the ordinance in appropriate language. Said ordinance shall then be submitted to and given final approval by the Common Council.
(Code 1965, §25.01; Ord. 5-92, §1-22-92 ; Ord 72-10, §1, 5-11-10)

### Secs. 2-29 – 2-50. Reserved.

## ARTICLE III. BOARDS, COMMITTEES, COMMISSIONS**

### DIVISION 1. GENERALLY

### Secs. 2-51 – 2-75. Reserved.

(Ord 44-12, §1, 6-6-12)
****Charter ordinance references –** Plan commission, §3-100 et. seq; board of review, §3-131 et seq.; board of public works,§3-161 et seq.
**Cross reference(s)** – Board of building inspection, §4-21; emergency government committee, §5-3; board of health, §2-76 et seq; Parks and Recreation Committee, §13-11 et. seq.
**Editor's Note** – Ordinance #237-02, adopted on 11-6-02 deleted Division 2 – Alcohol, Tobacco and Other Drug Abuse Prevention Committee.

## DIVISION 2. BOARD OF HEALTH*

### Sec. 2-76. Created.

(a) There is hereby created a Board of Health pursuant to W.S.A. §251.03.

(b) That in addition to the responsibilities outlined in (a), the Board shall take such steps as it determines to educate the public regarding the problems of alcohol, tobacco and other drug abuse, and to develop such public information programs as it deems necessary in relation thereto.
(Ord 1-97, 1, 1-8-97; Ord 44-12, §1, 6-6-12)

### Sec. 2-77. Membership; term of members.

The Board of Health shall consist of eight (8) members who shall be the Mayor and seven (7) members appointed by the Mayor subject to confirmation by the Common Council. Two (2) of the seven (7) members of the Board shall be a member of the Common Council. Members of the Board shall have a demonstrated interest or competence in the field of public health or community health, and a good faith effort shall be made to appoint a registered nurse and physician. Members of the Board shall hold office for terms of two (2) years.
(Code 1965, 1.04(5); Ord 101-95, 11-15-95, §1, 11-15-95, Ord 237-02, §1, 11-6-02, Ord 12-05, §1, 2-22-05; Ord 44-12, §1, 6-6-12; Ord 36-15, §1, 5-12-15)

### Sec. 2-78. Acceptance of office by members; organization.

(a) Immediately on the appointment of a person to the Board of Health, the City Clerk shall notify the member of his or her appointment by mail. Within one (1) week after the appointment, each member shall file with the City Clerk a written acceptance of this office.

(b) Within ten (10) days after the appointment of members, at a time and place to be designated by the Mayor by written notice timely mailed to each member, the Board of Health shall organize by the election of a president and a secretary, who shall hold their respective offices for a term of one (1) year or until their successors are elected. The secretary shall keep full minutes of the proceedings of the Board of Health in proper books.
(Code 1965, 7.01(1); Ord 44-12, §1, 6-6-12)
***Cross reference(s) -** Health officer, §2-261 et seq.; administration of the health regulations, §7-26 et seq.: food and food services, §9-186 et seq.; nuisances, ch. 12; the Board of Health may grant specific variances from the noise control ordinance. §12-83.
**State law reference(s) -** Board of Health, W.S.A. §251.03; health officer, W.S.A. §251.06

### Sec. 2-79. Meetings.

The annual meeting of the Board of Health for the election of officers and for the transaction of other business shall be shall between April 15 and May 1, succeeding, in each year, at such time and place as the Board of Health may have fixed by a recorded vote. Regular meetings shall be held once a month and special meetings may be called by the Mayor and Health Officer.
(Code 1965, §7.01(2))

### Sec. 2-80. Compensation of members.

The members of the Board of Health shall receive no compensation.
(Code 1965, §7.01(3))

### Sec. 2-81 – 2-120. Reserved.

## DIVISION 3. BOARD OF ZONING APPEALS**

**Sec. 2-121. Created.**

There is hereby created a Board of Zoning Appeals.

**Sec. 2-122. Membership; compensation of members.**

The Board of Zoning Appeals shall consist of five (5) members, to be appointed by the Mayor for terms of three (3) years. One (1) of the members shall be an architect or structural engineer of not less then ten (10) years practical experience. The Mayor shall designate one (1) of the members as chairman. The Mayor shall appoint two (2) alternate members of said board, who shall serve for terms of three (3) years, as required by Wisconsin Statutes. The board members shall serve without compensation.
(Code 1965, §1.04(8); Ord 105-08, §1, 6-10-08)
****State law reference(s) -** Board of Appeals, W.S.A. §62.23(7)(e).

**Secs. 2-123 – 2-135. Reserved.**

## DIVISION 4. POLICE AND FIRE COMMISSION**

**Sec. 2-136. Created.**

There is hereby a created a Police and Fire Commission.

**Sec. 2-137. Membership; appointment; compensation of members.**

The Police and Fire Commission shall consist of five (5) citizens. Annually, between the last Monday of April and the first Monday of May, the Mayor shall appoint a member of the Commission for a term of five (5) years. The appointment shall be in writing and filed with the secretary of the Commission. No appointment shall be made which will result in more than three (3) members of the Commission belonging to the same political party. The members of the Commission shall receive no compensation.
(Code 1965, §1.04(9))
****Cross reference(s)** – Police Department, §2-346 et seq.; Fire Department §6-31.
****State law reference(s)** – Police and Fire Commission, W.S.A. §62.13(1)

**Sec. 2-138. Records.**

The Police and Fire Commission shall keep a record of its proceedings.
(Code 1965, §1.04(9))

**Sec. 2-139. Appointments to police and fire departments.**

(a) The Police and Fire Commission shall appoint the Chief of Police and the Chief of the Fire Department, who shall hold their offices for an indefinite term subject to suspension or removal for cause by the Police and Fire Commission.

(b) The Chief of Police and the Chief of the Fire Department shall appoint subordinates, subject to approval by the Commission. Such appointments shall be made by promotion when this can be done with advantage; otherwise appointments shall be made from an eligible list provided by examination and approval by the Commission.
(Code 1965, §§1.03(6), (7), 4.01, Ord 237-02, §1, 11-6-02)

**Secs. 2-140 – 2-150. Reserved.**

## DIVISION 5. LIBRARY BOARD**

### Sec. 2-151. Created.

There is hereby created a Library Board pursuant to W.S.A.§43.54.

### Sec. 2-152. Membership; term of members; compensation of members.

The Library Board shall consist of eight (8) members appointed by the Mayor with the approval of the Common Council for terms of three (3) years beginning on July 1 in the year of appointment. The Superintendent of Schools or his representative shall be an additional member of the Board. Not more than one (1) member of the Common Council shall at any time be a member of the Library Board. No compensation or expenses shall be paid to the members of the Library Board.
(Code 1965, §1.04(4), Ord 44-12, §1, 6-6-12)
**Cross reference(s)**- Streets, sidewalks and other public places ch. 16.
**State law reference(s) –** Library board, W.S.A. §§43.54, 43.60

### Sec. 2-153. Powers and duties; appointment of librarian.

(a) The powers and duties of the Library Board shall be as provided in W.S.A. §43.01 et seq., which is adopted as part of this section by reference.

(b) The Library Director shall be appointed by the Library Board.
(Code 1965, §1.03(8), Ord 237-02, §1, 11-6-02)

### Sec. 2-154. Public Library.

There is hereby established in the city a public library pursuant to W.S.A.§43.52. The library is authorized, under W.S.A. ch. 43, to participate in a public library system.

### Secs. 2-155 – 2-165. Reserved.

## DIVISION 6. TRANSIT COMMISSION

### Sec. 2-166. Created.

There is hereby created the Fox Cities Transit Commission.
(Code 1965, §22.03; Ord 81-93, §1, 4-21-93; Ord 76-98, §1, 8-5-98; Ord 44-12, §1, 6-6-12)

### Sec. 2-167. Membership; terms of members.

(a) The Fox Cities Transit Commission shall consist of fifteen (15) members as follows:

(1) Five (5) members from the City of Appleton consisting of three (3) citizens and two (2) alderpersons, to be appointed by the Mayor subject to confirmation by the Common Council. The Common Council members shall be appointed annually for one- (1-) year terms and the other Appleton representatives shall serve three (3) year terms which shall expire on April 30.

(2) The other ten (10) members shall be made up of representatives of municipalities that provide local funding for Valley Transit. These shall include the following:

a. City of Neenah – two (2);

b. Town of Grand Chute – two (2);

c. City of Menasha – one (1);

d. Town of Menasha – one (1);

e. City of Kaukauna – one (1);

f. Village of Kimberly – one (1);

g. Town of Buchanan – one (1); and

h. Village of Harrison – one (1).

(3) The members listed in (2) shall be appointed for terms as follows:

a. City of Neenah and Town of Grand Chute shall each have one (1) member whose initial term expires April 30, 2015 and the other whose term expires April

30, 2017.

b. City of Menasha, Town of Menasha and City of Kaukauna members' initial term shall expire April 30, 2017.

c. Village of Kimberly, Town of Buchanan and Village of Harrison members' initial term shall expire April 30, 2016.

d. All subsequent terms except those identified in Sec. (a)(1) shall run for three (3) years expiring on April 30 of the third year.

(b) The Commission shall report to the Common Council and be part of the City of Appleton's organizational structure.

(c) Any vacancies occurring during office shall be filled in the same manner for the balance of the unexpired term.
(Ord 10-99, §1, 2-20-99, Ord 48-00, §1, 7-22-00, Ord 34-03, §1, 2-25-03, Ord 148-05, §1, 12-27-05; Ord 23-06, §1, 3-21-06; Ord 191-11, §1, 9-13-11; Ord 52-14, §1, 8-7-14)

**Sec. 2-168. Officers.**

The Fox Cities Transit Commission shall elect such officers as it deems necessary for the proper functioning of the Commission. The General Manager of the transit system shall serve as secretary to the Commission.
(Code 1965, §22.03(2); Ord 79-93, §1, 4-21-93 ; Ord 44-12, §1, 6-6-12)

**Sec. 2-169. Powers and duties.**

The Fox Cities Transit Commission shall have the following powers and duties.

(a) Transit system.

(1) The Commission shall have the power and duty to provide overall supervision of the operation and maintenance of the Transit System. The supervision shall include establishing policy for the efficient operation of the bus transit system, service agreements, contracts, routes, fares, hours of service, purchase and maintenance of transit vehicles and transit-related items and all items which concern the physical and operational aspect of bus transit management. Actions of the Commission under this subsection shall be consistent with approved Common Council policies or, in the absence of such policies, shall be approved by the Common Council. The General Manager of the Transit System shall be responsible for the operation and administration of the Transit System.

(2) The Transit Commission shall award all contracts relating to the Transit System, pursuant to the policies adopted by the Commission. Said policies shall be on file in the Office of the General Manager of Valley Transit. Set aside contracts shall not be used.
(Code 1965, §22.03(3); Ord 78-93, §1, 4-21-93; Ord 41-94 §1, 3-2-94)

**Sec. 2-170. Finances.**

The Commission shall be subject to the same financial, budgetary and purchasing procedures as other City departments.
(Code 1965, §22.03(4); Ord 78-93, §1, 1-6-93; Ord 77-93, §1, 4-21-93)

**Sec. 2-171. Personnel of transit system**

(a) General manager.

(1) ***Appointment***. The General Manager of the Transit System (Valley Transit) shall be appointed by the Mayor subject to confirmation by the Common Council.

(2) ***Term.*** The General Manager of the Transit System shall hold office for an indefinite period of time, subject to removal for cause by a majority vote of all members of the Common Council.

(b) All other employees of the Transit System shall be City employees administered by the Department of Human Resources. Contractual service may be utilized in lieu of appointment of a general manager if authorized by the Common Council.
(Code 1965, §22.03(5), Ord 237-02, §1, 11-6-02 ; Ord 44-12, §1, 6-6-12)

**Sec. 2-172. Service area of municipally-owned transit system.**

The public Transit System, owned and operated by the City shall be comprised of the fixed route service ("Valley Transit") and its complementary paratransit service

("Valley Transit – II") for persons who, because of age or disability, are deemed unable to use the fixed route service. The transit service area shall include, in addition to the City, those neighboring municipalities which contract with the City for fixed route service and which agree to share in paying the cost of the system. These costs shall be apportioned among the participating municipalities to be based on the total miles of fixed route service within its municipal boundaries. The complementary paratransit service shall be operated to and within only those municipalities that contract for the fixed route service.

The exception to the above for Valley Transit – II service will be when another funding entity, such as a county, pays a local share of that service. In such a case, with approval from the funding entity, the complementary paratransit service shall be operated within the full 3/4 mile from the fixed-route service as required by the Americans With Disabilities Act and allowed by W.S.A. §66.1021.
(Ord 136-92, §1, 12-16-92; Ord 49-00, §1, 7-22-00; Ord 44-12, §1, 6-6-12)

**Secs. 2-173 – 2-215. Reserved.**

## ARTICLE IV. OFFICERS AND EMPLOYEES

### DIVISION 1. GENERALLY

**Sec. 2-216. Residency policy.**

Members of boards or commissions shall be residents of the City at the time of appointment and all department heads shall be residents of the City within twelve (12) months of the date of their hiring or appointment and maintain residency in the City while under the employment or service of the City. If any such City department head or member of a board or commission does not meet this requirement, his office or position shall be vacated and such vacancy shall be filled in the manner prescribed by law or ordinance. The residency deadline may be extended with the recommendation of the Mayor and approval of the Common Council. This section does not apply to the physician members of the Board of Health, the Director of Parks, Recreation and Facilities Management or non-City members of the Fox Cities Transit Commission. Changes in the names of departments or titles of department heads shall not affect the requirements of this section.
(Code 1965, §1.10; Ord 130-95, §1, 12-20-95, Ord 237-02, §1, 11-6-02, Ord 124-04, §1, 9-21-04; Ord 55-10, §1, 3-23-10; Ord 44-12, §1, 6-6-12)

**Sec. 2-217. Compensation.**

(a) ***Generally.*** Salaries and compensation of officials and employees shall be determined by the Council.

(b) ***Mayor.*** The salary of the Mayor shall be as follows:

| | |
|---|---|
| 2012 – 2013 | $91,000 |
| 2013 – 2014 | $91,910 |
| 2014 – 2015 | $92,829 |
| 2015 – 2016 | $94,686 |

(Code 1965, §1.05; Ord 1-92, §1,1-22-92; Ord 47-97, §6-4-97, Ord 125-00, §1, 12-23-00, Ord 28-04, §1, 2-24-04; Ord 97-07, §1, 6-12-07; Ord 161-11, §1, 8-9-11)

**Sec. 2-218. Directors generally.**

(a) ***Appointment.*** All non-elected directors, except those subject to extraordinary statutory provisions, shall be appointed by the Mayor and subject to confirmation by the Common Council.

(b) ***Selection.*** Selection shall be made on the basis of merit, experience and administrative ability, efficiency

and general qualifications and fitness for performing the duties of the position.

(c) ***Term; removal from office.*** Directors shall hold office for an indefinite period of time subject to removal for cause by majority vote of the Common Council unless a three-quarter (3/4) majority vote is required by statute.

(d) ***Cause, defined.*** The term "cause" as used in this section is defined as inefficiency, neglect of duty, official misconduct or malfeasance in office, or moral turpitude.
(Ord 44-12, §1, 6-6-12)

**Secs. 2-219 – 2-230. Reserved.**

## DIVISION 2. DIRECTOR OF HUMAN RESOURCES

**Sec. 2-231. Office created.**

The office of the Director of Human Resources is hereby created pursuant to W.S.A. §62.09(1)(a). The manner of selection of the Director of Human Resources shall be as provided in Charter Ordinance §4-100 et seq.
(Code 1965, §1.09(3), (4); Ord 3-93, §1, 1-6-93, Ord 237-02, §1, 11-6-02 ; Ord 44-12, §1, 6-6-12)

**Sec. 2-232. Duties.**

The Director of Human Resources shall be under the jurisdiction of the Human Resources Committee and shall perform such duties as the job classification specifies or as the Council directs.
(Code 1965, §1.09(5); Ord 4-93, §1, 1-6-93, Ord 237-02, §1, 11-6-02; Ord 70-10; §1, 5-11-10, Ord 125-11, §1, 5-10-11; Ord 44-12, §1, 6-6-12)

**Secs. 2-233 – 2-239. Reserved.**

## DIVISION 3. DIRECTOR OF FINANCE

**Sec. 2-240. Office created.**

The office of the Director of Finance is hereby created.
(Code 1965, §2.01(2); Ord 4-93, §1-6-93 ; Ord 44-12, §1, 6-6-12)

**Sec. 2-241. Duties.**

The Director of Finance shall be those set forth in W.S.A. §62.09(10) for controllers: all duties involving financial matters as set forth in the ordinances of the city; and all duties set forth in W.S.A. §62.09(9) and the ordinances of the City for City Treasurer. These duties shall include budget preparation, accounting, internal auditing, payroll, assessments, maintenance of all financial and accounting records, utility billing, collection, and the provision of such reports as are necessary or requested by the Common Council. The Director of Finance shall also be the purchasing agent for the City.
(Code 1965, §2.01(3); Ord. 6-93, §1, 1-6-93, Ord 237-02, §1, 11-6-02; Ord 44-12, §1, 6-6-12)

**Sec. 2-242. Term; removal from office.**

The Director of Finance shall hold office for an indefinite period of time, subject to removal for cause by a three-quarter (3/4) vote of all members of the Common Council.
(Ord 115-93, §1, 7-21-96, §1, 9-4-96; Ord 44-12, §1, 6-6-12)

**Secs. 2-243 – 2-249. Reserved.**

## DIVISION 4. HEALTH OFFICER

**Sec. 2-250. Office created.**

The office of the City Health Officer is hereby created.
(Code 1965, §1.03(2)(a), Ord 237-02, §1, 11-6-02 ; Ord 44-12, §1, 6-6-12)

**Sec. 2-251. Qualifications.**

To be eligible for appointment, an applicant for Health Officer shall meet the training and experience requirements as set forth in W.S.A. §251.06.
(Code 1965, §1.03(2)(c) ; Ord 44-12, §1, 6-6-12)

**Sec. 2-252. Term of office; removal from office.**

The City Health Officer shall hold office for an indefinite term, subject to removal for cause by a three-quarter (3/4) vote of all members of the Common Council.
(Code 1965, §1.03(2)(b); Ord 20-97, §1, 4-2-97 ; Ord 44-12, §1, 6-6-12)

**Sec. 2-253. Duties.**

The duties of the Health Officer shall be those set forth in W.S.A. §251.06.
(Ord 44-12, §1, 6-6-12)

**Sec. 2-254. Badge.**

The Health Officer shall have a suitable badge or insignia of the office to be displayed as occasion may require.
(Code 1965, §4.04; Ord 44-12, §1, 6-6-12)

**Sec. 2-255. Acting Health Officer.**

The Health Officer shall designate a person as Acting Health Officer in the event the Health Officer is absent from the City.
(Ord 143-94, §1, 12-7-94; Ord 44-12, §1, 6-6-12)

**Secs. 2-256 – 2-259. Reserved.**

## DIVISION 5. DIRECTOR OF PUBLIC WORKS

**Sec. 2-260. Office created.**

The office of the Director of Public Works is hereby created.
(Code 1965, §1.03(1)(a), Ord 237-02, §1, 11-6-02; Ord 44-12, §1, 6-6-12)

**Sec. 2-261. Duties.**

The Director of Public Works shall have the following duties:

(a) Subject to the direction of the Common Council or the Mayor, the Director shall be responsible for the administration of all public works and of the construction, maintenance, and repair of streets, alleys, curbs and gutters, sidewalks, bridges, parking areas, sewers, water mains, stormwater facilities and parking structures, and all machinery, equipment and property used in any activity under his/her control.
(Code 1965, §1.03(1)(d)(1) – (10), Ord 237-02, §1, 11-6-02 ; Ord 44-12, §1, 6-6-12)
**Charter ordinance reference –** Board of public works, §3-161.
**Cross reference(s)** – Parks and recreation, ch. 13; streets, sidewalks & other public places, ch. 16; parking facilities, §19-106 et. seq.; utilities, ch. 20.

**Secs. 2-262 – 2-269. Reserved.**

## DIVISION 6. DIRECTOR OF PARKS, RECREATION AND FACILITIES MANAGEMENT

**Sec. 2-270. Office created.**

The office of the Director of Parks, Recreation and Facilities Management is hereby created.
(Ord 237-02, §1, 11-6-02; Ord 44-12, §1, 6-6-12)

**Sec. 2-271. Duties.**

All duties associated with public buildings and grounds shall be under the jurisdiction of the Finance Committee. For matters involving Parks and Recreation programs the Director shall report to the Parks and Recreation Committee and shall perform such duties as the job classification specifies or as the Council directs.
(Ord 51-96, §1, 6-5-96; Ord 44-12, §1, 6-6-12; Ord 14-13, §1, 7-8-13)

**Secs. 2-272 – 2-279. Reserved.**

## DIVISION 7. DIRECTOR OF COMMUNITY AND ECONOMIC DEVELOPMENT

**Sec. 2-280. Office created.**

The office of the Director of Community and Economic Development is hereby created.
(Ord 44-12, §1, 6-6-12)

**Sec. 2-281. Duties.**

The Director of Community and Economic Development shall act in an advisory capacity to the Plan Commission on matters relating to planning and planning activities. He/She shall be responsible for the maintaining of the original of the zoning district map and for the preparation of oral or written reports on all zoning petitions referred to the Plan Commission by the Common Council. The Director shall be under the jurisdiction of the Community and Economic Development Committee regarding matters of economic development and shall perform such duties as the job classification specifies or as the Council directs.
(Ord 44-12, §1, 6-6-12)

**Secs. 2-282 – 2-289. Reserved.**

(Ord 237-02, §1, 11-6-02; Ord 139-05, §1, 12-13-05; Ord 141-05, §1, 12-13-05; Ord 142-05, §1, 12-13-05)
***Editor's Note:** The Departments of Planning and Economic Development were combined and renamed the Community Development Department. Ordinances 139-05, 141-05 and 142-05 reflect these changes.

## DIVISION 8. DIRECTOR OF UTILITIES

**Sec. 2-290. Office created.**

The office of the Director of Utilities is hereby created.
(Ord 44-12, §1, 6-6-12)

**Sec. 2-291. Duties.**

The Director of Utilities shall be responsible for the operation of the Water Utility and the Wastewater Utility. He/She shall be under the jurisdiction of the Utilities Committee and shall perform such duties as the job classification specifies or as the Council directs.
(Ord 44-12, §1, 6-6-12)

**Secs. 2-292 – 2-299. Reserved.**

## DIVISION 9. GENERAL MANAGER OF VALLEY TRANSIT

**Sec. 2-300. Office created.**

The office of the General Manager of Valley Transit is hereby created.
(Ord 44-12, §1, 6-6-12)

**Sec. 2-301. Duties.**

The General Manager of Valley Transit shall be under the jurisdiction of the Fox Cities Transit Commission and shall be responsible for the operation and administration of the Transit System, and shall perform such duties as the job classification specifies or as the Commission directs.
(Ord 44-12, §1, 6-6-12)

**Secs. 2-302 – 2-309. Reserved.**
(Ord 237-02, §1, 11-6-02)

## DIVISION 10. DIRECTOR OF TECHNOLOGY SERVICES

**Sec. 2-310. Office created.**

The office of the Director of Technology Services is hereby created.
(Ord 44-12, §1, 6-6-12)

**Sec. 2-311. Duties.**

The Director of Technology Services shall be under the jurisdiction of the Finance Committee, and shall be responsible for the long-range planning, operation and administration of the City's technology systems and services, and shall perform such duties as the job classification specifies or as the Council directs.
(Ord 44-12, §1, 6-6-12)

**Secs. 2-312 – 2-319. Reserved.**

## DIVISION 11. CHIEF OF POLICE

**Sec. 2-320. Appointment.**

The Chief of Police shall be appointed by the Police and Fire Commission, pursuant to W.S.A §62.13.
(Ord 44-12, §1, 6-6-12)

**Sec. 2-321. Term; removal from office.**

The Chief of Police shall hold office for an indefinite term, subject to suspension or removal for cause by the Police and Fire Commission, pursuant to W.S.A. §62.13.
(Ord 44-12, §1, 6-6-12)

**Sec. 2-322. Duties.**

The Chief of Police shall be under the jurisdiction of the Safety and Licensing Committee, and shall be responsible for the long-range planning, operation, administration, control, and representation of the City's Police Department and its employees, and shall perform such duties as the job classification specifies or as the Council directs.
(Ord 44-12, §1, 6-6-12)

**Secs. 2-323 – 2-329. Reserved.**

## DIVISION 12. CHIEF OF THE FIRE DEPARTMENT

**Sec. 2-330. Appointment.**

The Chief of the Fire Department shall be appointed by the Police and Fire Commission, pursuant to W.S.A §62.13.
(Ord 44-12, §1, 6-6-12)

**Sec. 2-331. Term; removal from office.**

The Chief of the Fire Department shall hold office for an indefinite term, subject to suspension or removal for cause by the Police and Fire Commission, pursuant to W.S.A. §62.13.
(Ord 44-12, §1, 6-6-12)

**Sec. 2-332. Duties.**

The Chief of the Fire Department shall be under the jurisdiction of the Safety and Licensing Committee, and shall be responsible for the long-range planning, operation, administration, control, and representation of the City's Fire Department and its employees, and shall perform such duties as the job classification specifies or as the Council directs.
(Ord 44-12, §1, 6-6-12)

**Secs. 2-333 – 2-339. Reserved.**

## DIVISION 13. LIBRARY DIRECTOR

**Sec. 2-340. Appointment.**

The Library Director shall be appointed by the Library Board, pursuant to W.S.A. §43.58.
(Ord 44-12, §1, 6-6-12)

**Sec. 2-341. Term; removal from office.**

The Library Director shall hold office for an indefinite term, subject to removal for cause by the Library Board.
(Ord 44-12, §1, 6-6-12)

**Sec. 2-342. Duties.**

The Library Director shall be under the jurisdiction of the Library Board, and shall be responsible for the long-range planning, operation and administration of the Library, and shall perform such duties as the job classification specifies or as the Library Board directs.
(Ord 44-12, §1, 6-6-12)

**Secs. 2-343 – 2-349. Reserved.**

## DIVISION 14. CITY ASSESSOR

**Secs. 2-350 – 2-359. Reserved.**

The City Assessor shall be appointed by the Mayor subject to confirmation by the Common Council as prescribed by Charter Ordinance §2-1(d).
(Ord 44-12, §1, 6-6-12)

**Sec. 2-351. Term of office; removal from office.**

The City Assessor shall hold office for an indefinite term, subject to removal for cause by a three-quarter (3/4) vote of all members of the Common Council.
(Ord 44-12, §1, 6-6-12)

**Sec. 2-352. Duties.**

The City Assessor shall supervise the Division of the City Assessor of the Department of Community and Economic Development. The City Assessor shall be under the jurisdiction of the Finance Committee, and shall perform all duties prescribed in W.S.A §62.09, or as the Council directs.
(Ord 44-12, §1, 6-6-12; Ord 75-12, §1, 8-21-12)

**Secs. 2-353 – 2-359. Reserved.**

## DIVISION 15. CITY ATTORNEY

**Sec. 2-360. Election.**

The City Attorney shall be elected as prescribed by Charter Ordinance §2-1.
(Ord 44-12, §1, 6-6-12)

**Sec. 2-361. Duties.**

The City Attorney shall be under the jurisdiction of the Finance Committee, and shall perform all duties prescribed by W.S.A. §62.09(12), as well as being responsible for the long-range planning, operation and administration of the City's Legal Services Department.
(Ord 44-12, §1, 6-6-12)

**Secs. 2-362 – 2-369. Reserved.**

## DIVISION 16. CITY CLERK

**Sec. 2-370. Appointment.**

The City Clerk shall be appointed by the Mayor subject to confirmation by the Common Council as prescribed by Charter Ordinance §2-1(e).
(Ord 44-12, §1, 6-6-12)

**Sec. 2-371. Term of office; removal from office.**

The City Clerk shall hold office for an indefinite term, subject to removal for cause by a three-quarter (3/4) vote of all members of the Common Council.
(Ord 44-12, §1, 6-6-12)

**Sec. 2-372. Duties.**

The City Clerk shall supervise the Division of the City Clerk of the Legal Services Department, working under the supervision of the City Attorney. The City Clerk shall perform all duties prescribed in W.S.A §62.09, or as the Council directs.
(Ord 237-02, §1, 11-6-02; Ord 140-05, §1, 12-13-05, Ord 44-12, §1, 6-6-12)

**Secs. 2-373 – 2-399. Reserved.**

## ARTICLE V. DEPARTMENTS

### DIVISION 1. GENERALLY.

**Secs. 2-400 – 2-419. Reserved.**

***Editor's note –** Ord 75-93, §1, 4-21-93, repealed Div. 2, §§2-331 – 2-335, which pertained to administrative services.

### DIVISION 2. DEPARTMENT OF HUMAN RESOURCES.

**Sec. 2-420. Created.**

There is hereby created a Department of Human Resources in the City, to be under the supervision of the Director of Human Resources, with such other personnel as is needed to fulfill the functions of the Department.
(Ord 71-93, §1, 4-21-93; Ord 44-12, §1, 6-6-12)

**Secs. 2-421 – 2-429. Reserved.**

### DIVISION 3. DEPARTMENT OF FINANCE.

**Sec. 2-430. Created.**

There is hereby created a Department of Finance in the City, to be under the supervision of the Director of Finance, with such other personnel as is needed to fulfill the functions of the Department.
(Ord 72-93, §1, 4-21-93; Ord 44-12, §1, 6-6-12)

**Secs. 2-431 – 2-439. Reserved.**

## DIVISION 4. DEPARTMENT OF HEALTH.

### Sec. 2-440. Created.

There is hereby created a Department of Health in the City, to be under the supervision of the Health Officer, with such other personnel as is needed to fulfill the functions of the Department.
(Ord 44-12, §1, 6-6-12)

### Secs. 2-441 – 2-449. Reserved.

## DIVISION 5. PUBLIC WORKS DEPARTMENT.

### Sec. 2-450. Divisions.

There is hereby created a Department of Public Works, to be under the supervision of the Director of Public Works, with such other personnel as is needed to fulfill the functions of the Department. The Department of Public Works shall consist of the Engineering Division and Operations Division.
(Code 1965, §1.03(1)(d)(11); Ord 44-12, §1, 6-6-12)

### Sec. 2-452. Central Equipment Agency.

The Central Equipment Agency of the Department of Public Works is hereby created and established. The purpose of the agency is to provide a sound and accurate guide to the efficiency and ultimate cost to the City of its rolling, mobile, vehicular and other equipment and services. It shall be the function of such agency to acquire, maintain and furnish rolling, mobile, vehicular and other equipment to City departments, as authorized by council.
(Ord 83-76, §1, 12-15-78; Ord 4-93, §1, 1-6-93; Ord 18-97 §1, 3-19-97; Ord 44-12, §1, 6-6-12)
***Cross reference(s) –** Solid waste, ch. 15; streets, sidewalks and other public places, ch. 16; utilities, ch 20.

### Secs. 2-453 – 2-459. Reserved.

## DIVISION 6. DEPARTMENT OF PARKS, RECREATION AND FACILITIES MANAGEMENT.

**Sec. 2-460. Created.**

There is hereby created a Department of Parks, Recreation and Facilities Management in the City, to be under the supervision of a Director of Parks, Recreation and Facilities Management, with such other personnel as is needed to fulfill the functions of the Department.
(Ord 44-12, §1, 6-6-12)

**Secs. 2-461 – 2-469. Reserved.**

## DIVISION 7. DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT.

**Sec. 2-470. Created.**

(a) There is hereby created a Department of Community and Economic Development in the City, to be under the supervision of the Director of Community and Economic Development, with such other personnel as is needed to fulfill the functions of the Department.

(b) There is hereby created within the Department of Community and Economic Development the Division of the City Assessor, to be under the immediate supervision of the City Assessor, with such other personnel as required to fulfill the functions of the Division.

(c) Whenever the Assessor, in the performance of the Assessor's duties, requests or obtains income and expense information pursuant to §70.47(7)(af), Wis. Stats., or any successor statue thereto, then, such income and expense information that is provided to the Assessor shall be held by the Assessor on a confidential basis, except, however, that the information may be revealed to and used by persons: in the discharging of duties imposed by law; in the discharge of duties imposed by office (including, but not limited to, use by the Assessor in performance of official duties of the Assessor's office and use by the Board of Review in performance of its official duties); or pursuant to order of a court. Income and expense information provided to the Assessor under §70.47(7)(af), unless a court determines that it is inaccurate, is, per §70.47(7)(af), not subject to the right of inspection and copying under §19.35(1), Wis. Stats.
(Ord 44-12, §1, 6-6-12; Ord 76-12, §1, 8-21-12)

**Secs. 2-471 – 2-479. Reserved.**

## DIVISION 8. DEPARTMENT OF UTILITIES.

**Sec. 2-480. Created.**

There is hereby created a Department of Utilities in the City, to be under the supervision of the Director of Utilities, with such other personnel as is needed to fulfill the functions of the Department.
(Ord 44-12, §1, 6-6-12)

**Secs. 2-481 – 2-489. Reserved.**

## DIVISION 9. VALLEY TRANSIT.

**Sec. 2-490. Created.**

There is hereby created the Valley Transit System in the City, to be under the supervision of the General Manager and the Fox Cities Transit Commission, with such other personnel as is needed to fulfill the functions of the Transit System.
(Ord 44-12, §1, 6-6-12)

**Secs. 2-491 – 2-499. Reserved.**

## DIVISION 10. DEPARTMENT OF TECHNOLOGY SERVICES.

**Sec. 2-500. Created.**

There is hereby created a Department of Technology Services in the City, to be under the supervision of the Director of Technology Services, with such other personnel as is needed to fulfill the functions of the Department.
(Ord 44-12, §1, 6-6-12)

**Secs. 2-501 – 2-509. Reserved.**

## DIVISION 11. POLICE DEPARTMENT **

**Sec. 2-510. Created.**

There is hereby created a Police Department.

**Sec. 2-511. Powers and Duties.**

(a) The Chief of Police shall have general supervision over the Police Department and shall obey all lawful written orders of the Mayor or Common Council.

(b) The Chief of Police and officers of the Police Department shall possess the powers, enjoy the privileges and be subject to the liabilities conferred and imposed by law upon constables; and shall arrest with or without process and, with reasonable diligence, take before the proper court every person found in the City violating any law of the State, of Ordinance, of the City, of County and may command all persons present in such case to assist them therein. If any person being so commanded shall refuse or neglect to render such assistance, he shall be subject to the penalty imposed by §1-16. Police officers shall collect the same fees allowed to constables for similar services.

(c) The Chief of Police or any other officer directed by him shall proceed to the scene of fires, riots and tumultuous assemblages and take charge of the police present, and exert his best efforts to save and protect property, disperse mobs and arrest such persons as he may find engaged in disturbing the peace or aiding and abetting others in doing so.

**Sec. 2-512. Report to Council.**

The Chief of Police shall make an annual report on or before the second Council meeting in February of each year of all arrests made by the police of the City, and the disposition of the cases, before what court they were taken, and all forfeitures and fines imposed, and on all other matters pertaining to his office, when required by the Common Council.
(Code 1965, §4.07)

**Sec. 2-513. Police officers to wear name tag and badge.**

Police officers of the City, when on duty, shall wear the badge or insignia and name tag of their office on the outside of the outermost garment, conspicuously displaying the badge and name tag to the entire surface thereof may be seen, except when caution may dictate that the badge and name tag should not be so exposed.

**Sec. 2-514. Police officers not to be bail.**

The Chief of Police or other police officer shall not be bail for any person arrested, and shall in no case become bail for any person under arrest.
(Code 1965, §4.05)

**Sec. 2-515. Police officer to attend Council meetings.**

The Chief of Police or other police officer appointed by him shall attend all meetings of the Council and, under the direction of the presiding officer of the Council, shall preserve order and decorum.
(Code 1965, §4.06)

**Secs. 2-516 – 2-519. Reserved.**
(Code 1965, §4.02; Ord 44-12, §1, 6-6-12)
****Cross reference(s)** – Police & Fire Commission, 2-136 et seq; animals, §3-1, et seq; alarm systems, §12-121 et seq.

## DIVISION 12. FIRE DEPARTMENT.

**Sec. 2-520. Created.**

There is hereby created a Fire Department in the City, to be under the supervision of the Fire Chief, with such other personnel as is needed to fulfill the functions of the Department.
(Ord 44-12, §1, 6-6-12)

**Secs. 2-521 – 2-529. Reserved.**

## DIVISION 13. PUBLIC LIBRARY.

**Sec. 2-530. Created.**

There is hereby created a Public Library in the City, to be under the supervision of the Library Director and the Library Board, with such other personnel as is needed to fulfill the functions of the Library.
(Ord 44-12, §1, 6-6-12)

**Sec. 2-531 – 2-539. Reserved.**

## DIVISION 14. RESERVED.

**Secs. 2-540 – 2-549. Reserved.**

**Editor's Note:** Division 14, Department of the Assessor, was repealed and reserved pursuant Ordinance 77-12 adopted by the Common Council on August 15, 2012, published on August 20, 2012 and effective on August 21, 2012. The Department of the City Assessor was moved to become the Division of the City Assessor under the Department of Community and Economic Development.
(Ord 75-99, §1, 10-6-99; Ord 44-12, §1, 6-6-12; Ord 77-12, §1, 8-21-12)

## DIVISION 15. DEPARTMENT OF LEGAL SERVICES.

**Sec. 2-550. Created**.

There is hereby created a Department of Legal Services in the City, to be under the supervision of the City Attorney. The Department of Legal Services shall consist of two (2) divisions: the Division of the City Attorney and the Division of the City Clerk, with such other personnel as is needed to fulfill the functions of the Department. The Department shall fulfill the duties prescribed for the City Clerk under Wis. Stat. §62.09(11) and the City Attorney under Wis. Stat. §62.09(12). The personnel in the Division of the City Attorney shall be directly supervised by the Deputy City Attorney and the personnel in the Division of the City Clerk shall be directly supervised by the City Clerk.
(Ord 44-12, §1, 6-6-12)

**Secs. 2-551 – 2-559. Reserved.**

## ARTICLE VI. ELECTIONS.*

**Sec. 2-560. Opening and closing of polls.**

Pursuant to W.S.A. §6.35, the polls in the City shall remain open on election days from 7:00 a.m. to 8:00 p.m.
(Code 1965, §1.07)

**Sec. 2-561. Authority of City Clerk regarding elections.**

That the City Clerk be authorized to take all necessary actions regarding the preparation for, and conduct of, elections as authorized by Wisconsin Statutes Chapters Five (5) through Twelve (12).
(Code 1965, §1.08; Ord 4-08, §1, 2-12-08)
***Charter ordinance references –** Elected officials, §2-1; wards, §2-3.
**Cross reference(s)** – Common Council, §2-26 et seq.; political sign regulations, §23-508(c)(16).
**Editor's Note**: §2-413 was repealed by the Common Council effective January 13, 2009 pursuant to Ord 1-09.

*(The next page is 207.)*

# Chapter 3

# Animals

**ARTICLE I. IN GENERAL**
Definitions....3-1
Enforcement and penalties....3-2
Authority to order general confinement of dogs and cats....3-3
Animal care generally....3-4
Abuse of animal; fighting animals....3-5
Abandonment....3-6
Giving animal as prize or inducement....3-7
Reserved....3-8
Report of vehicles striking animal....3-9
Poisoning....3-10
State law regarding cruelty to animals adopted....3-11
Maximum number of animals....3-12
Maintenance of pens and enclosures....3-13
Removal of animal waste....3-14
Restraint, nuisance animals....3-15
Impoundment....3-16
Report of animal bites and scratches....3-17
Rabies vaccination for dogs, cats and ferrets....3-18
Confinement of dog, cat or ferret involved in bite or scratch incident....3-19
State law regarding humane officers, rabies control and dogs adopted....3-20
Record of sales for pet shops, animal dealers....3-21
Humane officer; appointment; authority....3-22
Abatement orders....3-23
Issuance of order....3-23(a)
Hearing officer....3-23(b)
Appeal....3-23(c)
Police dogs....3-24
Reserved....3-25 – 3-50

**ARTICLE II. LICENSES**
DIVISION 1. GENERALLY
Issuance....3-51
Restricted species....3-52
Kennels and pet stores....3-53
Reserved....3-54 – 3-65
DIVISION 2. LICENSE FOR DOGS AND CATS
Required....3-66
Application....3-67
Reserved....3-68
Issuance; fee....3-69
Persons exempted from fee....3-70
License year; proration of fee....3-71
Late fee....3-72
Duplicates....3-73
Issuance of tags....3-74
Record of tags....3-75
Wearing of license tag, rabies tag required....3-76
Unlawful use....3-77
Revocation....3-78
Reserved....3-79 – 3-90

DIVISION 3. RESERVED
Reserved....3-91 – 3-115

**ARTICLE III. WILD OR DANGEROUS ANIMALS**
DIVISION 1. GENERALLY
Keeping for exhibition purposes; keeping wild animal as pet....3-116
Feeding of deer or other wild animals prohibited....3-117
Presumption....3-117(a)
Exceptions....3-117(b)
Reserved....3-118 – 3-130
DIVISION 2. DANGEROUS ANIMALS
Procedure for declaring animal dangerous....3-131
Harboring dangerous animals....3-132
Dangerous animals regulated....3-132(a)
Registration....3-132(b)
Leash and muzzle....3-132(c)
Confinement....3-132(d)
Signs....3-132(e)
Spay or neuter requirement....3-132(f)
Liability insurance....3-132(g)
Waiver by Board of Health....3-132(h)
Notification....3-132(i)
Euthanasia....3-132(j)
Waiver....3-132(k)
Certain animals not be declared dangerous....3-133
Prohibited dangerous animals....3-134
Not allowed in City of Appleton....3-134(a)
Destruction....3-134(c)
Enforcement....3-134(d)
Waiver....3-134(e)

## ARTICLE I. IN GENERAL

### Sec. 3-1. Definitions.

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

***Animal*** means any live, vertebrate creature, domestic or wild.

***Animal at large*** means an animal that is off the property and/or premises of the owner and/or caretaker and not under restraint.

***Animal control officer*** means any person designated by the Police Department to enforce the ordinances of the City and state statutes adopted by reference as they pertain to animal control.

***Animal shelter*** means any facility operated by a humane society or municipal agency or its authorized agents for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

***Bodily Harm*** means bodily injury including, but not limited to, a laceration requiring stitches, any fracture of a bone, a concussion, a loss or fracture of a tooth or any temporary loss of consciousness, sight or hearing.

***Caretaker*** means any person who, in the absence of the owner, temporarily harbors, shelters, keeps or is in charge of a dog, cat or any other domesticated bird or animal.

***Confined*** means restriction of an animal at all times by the owner to an escape-proof building, vehicle or other enclosure.

***Cruel*** means causing unnecessary and excessive pain, suffering or unjustifiable injury or death to an animal. Additionally, it shall be unlawful to tease, annoy, disturb, molest or irritate an animal that is confined to the owner's premises.

***Dangerous Animal*** means any of the following:

(1) Any animal which, when unprovoked, inflicts bodily harm on a person, domestic pet or animal on public or private property.

(2) Any animal which repeatedly chases or approaches persons in a menacing fashion or apparent attitude of attack, without provocation, upon the streets, sidewalks or any public grounds or on private property of another without the permission of the owner or person in lawful control of the property.

(3) Any animal with a known propensity, tendency or disposition to attack, to cause injury to, or otherwise threaten the safety of humans or other domestic pets or animals.

***Domestic animal*** means any animal which normally can be considered tame and converted to home life.

***Dwelling unit*** means a building or portion thereof designed to be used exclusively for residential purposes.

***Health officer*** means the City Health Officer or his duly designated representative.

***Humane officer*** means an individual appointed as such in accordance with §173.03.

***Kennel*** means any premises wherein any person engaged in the business of boarding, breeding, buying, letting for hire, training for a fee or selling of dogs or cats.

***Leash*** means a strap, chain, or cord that is no more than eight (8) feet in length and of appropriate strength to control the animal, used by a person of sufficient capability to restrain, control, and guide an animal.

***Licensing authority*** means the political body authorized to issue animal licenses.

***Molests*** means excessive barking, running up to or charging, threatening, jumping on or otherwise harassing people or other domestic animals or the passing public that are in the public right-of-way, or on public property, or on their own property, or property of anyone other than the owner and/or caretaker of the animal.

***Owner*** means any individual that has the right of property in an animal or who keeps, harbors, cares for, acts as its custodian or who knowingly permits an animal to remain on or about his premises/property for five (5) or more consecutive days.

***Pet store*** means any retail establishment in a commercially zoned building whose business includes the sale of live animals.

***Prohibited Dangerous Animal*** means any of the following:

(1) Any animal that is determined to be a prohibited dangerous animal under this division.

(2) Any animal that, while off the owner or caretaker's property, has killed a domesticated animal without provocation.

(3) Any animal that, without provocation, inflicts serious bodily harm on a person on public or private property.

(4) Any animal brought from another city, village, town or county that has been declared dangerous or vicious by that jurisdiction.

(5) Any dog that is subject to being destroyed under s. 174.02(3), Wis. Stats.

(6) Any dog trained, owned or harbored for the purpose of dog fighting.

***Public nuisance*** means any animal which:

(1) Molests passersby or passing vehicles;

(2) Attacks persons or animals without provocation when such persons or animals are peacefully conducting themselves in a place where they are lawfully entitled to be;

(3) Is at large on school grounds, parks or cemeteries;

(4) Is repeatedly at large;

(5) Damages private or public property;

(6) Barks, whines or howls in an excessive, continuous or untimely fashion;

(7) Any animal not having the vaccination as required by §3-18 of the Appleton Municipal Code;

(8) Is the subject of repeated violations under this chapter.

***Render sterile*** refers to a surgical procedure that has been performed on an animal that renders it incapable of siring or bearing offspring. The term includes neutering and spaying.

***Restraint*** means that the animal is secured by a leash not more than eight (8) feet in length and under the control of a responsible person and obedient to that person's command, or within the real property limits of its owner.

***Serious bodily harm*** means bodily injury which creates a substantial risk of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.

***Veterinary hospital or clinic*** means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of disease and injuries of animals.

***Wild animal*** means any nonhuman primate, raccoon, skunk, fox, wolf, or any animal which is in part of the canis lupis species, any animal raised for fur-bearing purposes or any other animal or hybrid thereof which can normally be found in the wild state, or poisonous reptiles, crocodilians and any other snake or reptile exceeding six (6) feet in length.

(Code 1965, §23.02; Ord 4-93, §1-6-93; Ord 32-97m §1-4-16-97; Ord 116-00, §1, 12-23-00; Ord 58-04, §1, 4-27-04; Ord 17-05, §1, 3-8-05; Ord 13-16, §1, 2-9-16; Ord 50-16, §1, 7-12-16)

**Cross reference(s)** – Definitions and rules of construction generally, §1-2.

**Sec. 3-2. Enforcement and penalties.**

(a) The provisions of this chapter shall be enforced by employees of the Health Department, Police Department or other persons authorized by the City Health Officer or Chief of Police. The City Health Officer may grant any exemptions or variances to the enforcement of this chapter for dogs specially trained to lead blind or deaf persons, to provide support for mobility-impaired persons or to assist with emergency search and rescue operations.

(b) Police Department and Health Department personnel are authorized to catch and impound animals at large, with such authorization to include the pursuit of animals upon the premises of the owner, caretaker or other private property. It shall be a violation of this chapter to interfere with the Health Department, Police Department or other persons authorized by the City Health Officer or Chief of Police in the performance of their duties.

(c) Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in §1-16.

(Code 1965, §23.13; Ord 40-96, §1, 5-1-96; Ord 164-02, §1, 8-27-02; Ord 17-5, §1, 3-8-105)

**Cross reference(s) -** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation. §1-18; health officer §2-261 et seq.; police department, §2-346 et seq.

**Sec. 3-3. Authority to order general confinement of dogs and cats.**

Whenever the safety of the public shall require it, the Mayor, by notice published in the official paper of the City, shall order that, for a period of twenty (20) days from and

after the date of the notice, no dogs or cats shall be permitted to go abroad in any of the streets, lanes, alleys or public places in the City without being properly muzzled with a secure muzzle or being led by a chain or other secure fastening.
(Code 1965, §23-14)

**Sec. 3-4. Animal care generally.**

No owner or caretaker of an animal shall fail to provide it with adequate food, adequate water and adequate heating, cooling, ventilation, sanitation, shelter, and medical care consistent with the normal requirements of an animal's size, species and breed.
(Code 1965, §23.09(1); Ord 17-05, §1, 3-8-05)
**Cross reference(s) –** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation. §1-81.

**Sec. 3-5. Abuse of animal; fighting animals.**

(a) No person shall beat, cruelly ill-treat, torment, overload, overwork or otherwise abuse an animal.

(b) No person shall cause, instigate or permit any dogfight, cockfight or other combat between animals or between animals and humans and no person may own, possess, keep or train any animal with the intent that the animal be engaged in fighting with other animals or humans. This section shall not apply to animals used by law enforcement, military or licensed security agencies, or animals whose owner or caretaker is a member of a nationally recognized animal organization and the animal is specially trained to compete in organized exhibitions, competitions or trials sanctioned by a recognized organization.
(Code 1965, §23.09(2); Ord 17-05, §1, 3-8-05)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation. §1-18.

**Sec. 3-6. Abandonment.**

No owner or caretaker of an animal shall abandon such animal.
(Code 1965 §23.09(3); Ord 17-05, §1, 3-8-05)
**Cross reference(s)** – Citation for violation of certain ordinances. §1-17; schedule of deposits for citation, §1-18.

**Sec. 3-7. Giving animal as prize or inducement.**

No person shall give away any live animal, fish, reptile or bird as a prize for or as an inducement to enter any contest, game or other competition or as an inducement to enter a place of amusement, or offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.
(Code 1965, §23.09(4))

**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation. §1-18.

**Sec. 3-8. Reserved.**

Editor's Note: This section, sale of baby fowl was deleted by Ord 17-05, §1, 3-8-05)

**Sec. 3-9. Report of vehicle striking animal.**

Any person who, as the operator of a motor vehicle, strikes a domestic animal, shall stop at once and shall immediately report such injury or death to the animal's owner or caretaker. If the owner or caretaker cannot be ascertained and located, such operator shall at once report the accident to the Police Department or to the Humane Society.
(Code 1965, §23.09(6); Ord 17-05, §1, 3-8-05)
**Cross reference(s) -** Citation for violation of certain ordinances. §1-17; schedule of deposits for citation. §1-18.

**Sec. 3-10. Poisoning.**

No person shall expose any poisonous substances, whether mixed with food or not, so that the substance shall be liable to be eaten by any animal, provided that it shall not be unlawful for a person to expose on his own property poisons designed for the purpose of rodent or pest extermination. This provision shall not prohibit the Health Department personnel or licensed pest control operators from providing rodent or pest control services.
(Code 1965, §23.09(7))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 3-11. State law regarding cruelty to animals adopted.**

W.S.A. §951.02 regarding cruelty to animals is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.02(7))
**Cross reference(s) -** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 3-12. Maximum number of animals.**

No person or household shall keep more than six (6) animals, the maximum number of dogs being three (3), the maximum number of rabbits being two (2), on any City lot, land parcel, or dwelling unit if in a multiple dwelling unit,

with the exception of a litter of pups or kittens, which may be kept for a period of time not to exceed five (5) months from birth. This section does not apply to premises holding a valid kennel license.
(Code 1965, §23.10; Ord 17-05, §1, 3-8-05)
**Cross reference(s) -** Citation for violation of certain ordinances. §1-7; schedule of deposits for citation. §1-18.

**Sec. 3-13. Maintenance of pens and enclosures.**

All pens, yards, structures or areas where animals are kept shall be maintained in a nuisance free manner. Excrement shall be removed regularly and disposed of properly so not to attract insects or rodents, become unsightly, or cause objectionable odors.
(Code 1965, §23.12(3); Ord 17-05, §1, 3-8-05)
**Cross reference(s) -** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 3-14. Removal of animal waste.**

(a) The owner or caretaker of an animal shall promptly remove and dispose of, in a sanitary manner, any excrement left or deposited by the animal upon public or private property.

(b) The owner or caretaker of a dog or cat shall have in his or her immediate possession an appropriate means of removing animal excrement whenever said animal is not on property owned or possessed by the owner or caretaker. This subsection shall not be applicable in cases in which a person is being assisted by a trained and certified seeing eye or mobility assistance dog.
(Code 1965, §23.12(1), (2); Ord 17-05, §1, 3-8-05)
**Cross reference(s) -** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18

**Sec. 3-15. Restraint, nuisance animals.**

(a) The owner and/or caretaker of any animal shall keep an animal within the limits of his or her property and/or premises and when off of the property and/or premises, the animal shall be restrained so that the unprovoked animal does not run at large or become a public nuisance. For purposes of this section, the phrase "running at large" encompasses all places within the City except the owner's premises, and includes all streets, alleys, sidewalks, other public areas where animals are permitted, and private property.

(b) All owners and/or caretakers shall exercise proper care and control of animals under their ownership, possession and/or custody to prevent them from becoming a public nuisance.

(c) Every female dog or cat in heat shall be confined in a building or secure enclosure, or otherwise restrained, in such a manner that such female dog or cat cannot come into contact with another unneutered male of the same species, except for planned breeding.
(Code 1965, §23.06(1) – (3); Ord 17-05, §1, 3-8-05; Ord 51-16, §1, 7-12-16)
**Cross reference(s) -** Citation for violation of certain ordinances. §1-17; schedule of deposits for citation §1-18.

**Sec. 3-16. Impoundment.**

(a) Unrestrained and nuisance animals shall be taken by authorized employees of the Police Department and impounded in a temporary or permanent animal shelter and there confined in a humane manner.

(b) When an animal is causing a public nuisance and its owner cannot be contacted at the time of the complaint, it may be impounded by authorized employees of the Police Department after an attempt to contact the owner is unsuccessful. After impoundment, reasonable attempts shall be made to contact the owner.

(c) An owner reclaiming an impounded animal shall pay the accrued impoundment fee and comply with provisions of Article II, Division 2 of this chapter.

(d) Any animal not reclaimed by its owner within seven (7) days becomes the property of the local government authority or humane society and shall be placed for adoption in a suitable home or humanely euthanized.
(Code 1965, §23.08; Ord 17-05, §1, 3-8-05)

**Sec. 3-17. Report of animal bites and scratches.**

All incidents occurring in the City in which any animal bites or scratches a person or another animal, or is suspected of such, shall immediately be reported to the Police Department by any person having knowledge of such incident. If the bite or scratch is caused by an animal for which there is no rabies vaccine or known quarantine, the animal, at the discretion of the Police Department or Health Officer, may be euthanized and analyzed for rabies with all expenses incurred being the responsibility of the owner.
(Code 1965, §23.07; Ord 17-05, §1, 3-8-05)
**Cross reference(s) -** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 3-18. Rabies vaccination for dogs, cats and ferrets; exemption.**

(a) The owner of a dog, cat or ferret shall have the animal vaccinated by a veterinarian at not later than five (5) months of age; or, if an owner obtains or brings an animal into the City that has reached five (5) months of age, unless that animal has been vaccinated as evidenced by a current

certificate of rabies vaccination from this state or another state, the owner of that animal shall have the animal revaccinated:

(1) Before the date that the immunization expires as stated on the certificate; or

(2) If no date is specified, within one (1) year after the previous vaccination.

(b) The owner of a dog may petition the Health Officer for an exemption to this section. Exemptions shall only be considered if a licensed veterinarian provides a detailed written explanation stating the vaccination is inadvisable because of a reaction to a previous vaccination, a physical condition, or a regimen of therapy that the dog is undergoing. A new letter shall be required for each year that an exemption is sought. The owner may appeal the Health Officer's decision to the Board of Health by following the same review process set forth in Code §3-131.
(Code 1965, §23.032)(a); Ord 17-05, §1, 3-8-05; Ord 78-06, §1, 6-13-06)
**Cross reference(s) -** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 3-19. Confinement of dog, cat or ferret involved in bite or scratch incident.**

(a) If any dog, cat or ferret for which the owner holds a current rabies certificate is involved in a bite or scratch incident, the owner shall quarantine and confine the animal under the supervision of a licensed veterinarian for at least ten (10) days from the date of the incident. The animal shall not be allowed to come in contact with other animals or people during the period of confinement. Supervision of a veterinarian includes, at a minimum, examination of the animal on the first day, on the tenth day, and on one (1) intervening day.

(b) Any dog, cat or ferret involved in a bite or scratch incident that has not been vaccinated or has not been revaccinated within the prescribed times must be confined at a veterinary hospital or a place designated by the City Health Officer or the Police Department.

(c) The owner of any dog, cat or ferret involved in a bite or scratch incident is responsible for any expenses incurred.
(Code 1965, §23.03(2)(d); Ord 17-05, §1, 3-8-05)
**Cross reference(s)** - Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 3-20. State law regarding humane officers, rabies control and dogs adopted.**

The provisions of W.S.A. Chapter 173, §95.21 and Chapter 174, exclusive of any penalties, are adopted by reference and are made part of this chapter, so far as applicable.
(Code 1965, §23.01)
**State law reference(s)** – Rabies control, W.S.A. §95.21; dogs, W.S.A. ch. 174.

**Sec. 3-21. Record of sales for pet shops, animal dealers.**

Pet shops and animal dealers shall keep a record of all sales of dogs, cats and ferrets. The record shall contain the date and source of acquisition of the animal and the name, address and telephone number of the purchaser. The record of such sale must be kept at least one (1) year and all records shall be subject to inspection by the Police Department or any employee of the Health Department.
(Code 1965, §23.18)

**Sec. 3-22. Humane officer; appointment; authority.**

Pursuant to Section 173.03 of the Wisconsin Statutes, the Common Council for the City of Appleton, may from time to time, appoint one (1) or more Humane Officers. Humane Officers shall have the authority specified in ch. 173 and shall be under the direction of the Chief of Police or designee thereof.

**Sec. 3-23. Abatement orders.**

(a) ***Issuance of order.*** After investigation, if a humane officer or law enforcement officer has reasonable grounds to believe that a violation of a statute or ordinance is occurring and that the violation is causing or has the potential to cause injury to an animal, the humane officer or law enforcement officer may issue and serve an order or abatement pursuant to section 173.11 of the Wisconsin Statutes.

(b) ***Hearing officer***. Any person named in an order issued under sub. (a) may, within the ten- (10-) day period following service of the order, request a hearing on the order. The Health Officer shall conduct the hearing pursuant to the provisions of section 173.11 of the Wisconsin Statutes.

(c) ***Appeal***. Appeal from the decision of the Health Officer or other official shall be as provided in section 173.11 of the Wisconsin Statutes.
(Ord 17-05, §1, 3-8-05)

**Sec. 3-24. Police dogs.**

No person shall knowingly resist, obstruct or interfere with any police dog while the dog is on duty in pursuit of its police duties. Any police dog shall be exempt from the provisions of the animal control ordinance and other City ordinances, including quarantine periods after a bite, while on duty.
(Editor's Note: This section replaces §10-11, which has been deleted.)
(Ord 17-05, §1, 3-8-05)

**Secs. 3-25 – 3-50. Reserved.**

## ARTICLE II. LICENSES

### DIVISION I. GENERALLY

**Sec. 3-51. Issuance.**

(a) It shall be a condition of the issuance of any license under this article that the Police Department or Health Department shall be permitted to inspect all animals and the premises where the animals are kept at any time. If permission for such inspection is refused, the license of the refusing owner shall be revoked.

(b) If the applicant has withheld or falsified any information on the application, the licensing authority shall refuse to issue a license.

(c) No person who has been convicted of cruelty to animals shall be issued an animal license or be granted a license to operate a kennel.
(Code 1965, §23.05(4) – (6); Ord 17-05, §1, 3-8-05)

**Sec. 3-52. Restricted species.**

(a) Except as otherwise permitted within this section, no person shall keep, sell or offer for sale within the City any horses, cows, pigs, goats, sheep, bees, pigeons, chickens, geese, ducks or other fowl or any other domestic animal other than a dog, cat, rabbit, small caged birds, small caged animals or reptiles or aquatic and amphibian animals, kept solely as pets.

(b) Upon obtaining a permit issued by the Health Department, up to five (5) honeybee hives may be maintained by a permit holder within areas zoned P-I, Public Institutional District; or, a permit holder may maintain three (3) honeybee hives per acre up to a maximum of twenty-five (25) hives within an area approved as an urban farm.

(c) Upon obtaining a permit issued by the Health Department, residential honeybee hives may be maintained subject to the requirements and limitations on file with the Health Department.

(d) Upon obtaining a permit issued by the Health Department, and subject to the requirements and limitations on file with the Health Department, a limited number of pigeons may be maintained by the permit holder.
(Ord 39-92, §1, 4-15-92; Ord 141-09, §1, 8-25-09; Ord 74-11, §1, 3-22-11; Ord 37-12, §1, 5-16-12; Ord 12-13, §1, 4-9-13; Ord 82-15, §1, 10-13-15)

**Sec. 3-53. Kennels and pet stores.**

Except as otherwise provided, the restrictions and conditions imposed by this division shall apply to kennels

and pet store licenses pursuant to Chapter 9. Kennel and pet store operators shall have dogs and cats vaccinated against rabies, but are not required to license individual animals. No kennel or pet store license or fee is required of any veterinary hospital or clinic or animal shelter. The location of kennels and pet stores is subject to applicable zoning and other regulations.
(Ord. 33-97, §1, 4-16-97; Ord 17-05, §1, 3-8-05)

**Secs. 3-54 – 3-65. Reserved.**

## DIVISION 2. LICENSE FOR DOGS AND CATS.

**Sec. 3-66. Required.**

(a) Any person owning, keeping, harboring or having custody of any dog or cat over five (5) months of age within the City must obtain a license as provided in this division.

(b) Application for a license must be made within thirty (30) days after obtaining a dog or cat over four (4) months of age, except that this requirement will not apply to a nonresident keeping a dog, or cat within the municipality for not longer than thirty (30) days.
(Code 1965, §23.03(a) (1), (4))
**Cross reference(s) -** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation. §1-18.

**Sec. 3-67. Application.**

Written application for a dog or cat license shall be made to the licensing authority and shall include the name and address of the applicant, a description of the animal, any additional information requested, the appropriate fee, and a rabies certificate issued by a licensed veterinarian.
(Code 1965, §23.03(1)(a)(2); Ord 17-05, §1, 3-8-05)

**Sec. 3-68. Reserved.**

Editor's Note: This section, Term, was deleted by Ord 17-05, §1, 3-8-05)

**Sec. 3-69. Issuance; fee.**

(a) A dog or cat license shall be issued after completing an application, showing evidence of rabies vaccination and payment of the applicable fee. Evidence of neutering, spaying, or other method of rendering the animal sterile, from a licensed veterinarian, will be required to receive the discounted fee for animals rendered sterile.

(b) License fees shall be as follows:

(1) For each dog or cat not rendered sterile, eleven dollars ($11.00)

(2) For each dog or cat rendered sterile, six dollars ($6.00).

(Code 1965, §23.03(1)(a)(5); Ord 17-05, §1, 3-8-05)

**Sec. 3-70. Persons exempted from fee.**

The license fee provided in this division shall not be required for governmental police dogs or other dogs subject to exemptions under Stats. Sec. 174.054, 174.055 and 174.056, as amended. Every person owning such a dog shall receive a free dog license annually upon application.
(Code 1965, §23.03(1)(a)(5))

**Sec. 3-71. License year; proration of fee.**

The license year commences on January 1 and ends on the following December 31. Application for a license may be made thirty (30) days prior to the license year. Persons applying for a license during the licensing year shall be required to pay fifty percent (50%) of the fee stipulated in this division if the animal becomes five (5) months of age after July 1 of the licensing year.
(Code 1965, §23.03(1)(a)(9))

**Sec. 3-72. Late fee.**

The Director of Finance shall assess and collect a late fee of five dollars ($5.00) if the owner fails to obtain a dog or cat license prior to April 1 of each year or within thirty (30) days of acquiring ownership of a licensable animal, or if the owner failed to obtain a license on or before the animal reached licensable age.
(Code 1965, Ord 4-93, §1, 1-6-93; Ord 17-05, §1, 3-8-05)

**Sec. 3-73. Duplicates.**

A duplicate dog or cat license may be obtained upon payment of a replacement fee of five dollars ($5.00).

**Sec. 3-74. Issuance of tags.**

Upon acceptance of the dog or cat license application and fee, the licensing authority shall issue a durable tag stamped with an identifying number and the year of issuance. Tags should be designed so that they may be conveniently fastened or riveted to the animal's collar or harness.

**Sec. 3-75. Record of tags.**

The licensing authority shall maintain a record of the identifying numbers of all dog and cat license tags and shall make this record available to the public.

**Sec. 3-76. Wearing of license tag, rabies tag required.**

Dogs and cats must wear license and rabies vaccination tags at all times when off the premises of the owner, with the exception of show dogs or cats during competition.
**Cross reference(s) –** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 3-77. Unlawful use.**

No person may use any dog or cat license for any animal other than the animal for which it was issued.
**Cross reference(s) –** Citation for violation for certain ordinances. §1-17; schedule of deposits for citation, §1-18.

**Sec. 3-78. Revocation.**

(a) The Safety and Licensing Committee, with Common Council approval, may revoke any dog or cat license if the person holding the license refuses or fails to comply with this chapter or any other law governing the protection and keeping of animals.

(b) Any person whose license is revoked shall, within ten (10) days thereafter, humanely dispose of all animals owned, kept or harbored. No part of the license fee shall be refunded. For any animal, a receipt from an animal shelter, veterinarian or other individual must be obtained as proof of proper disposal.
(Code 1965, §23.05(1), (3); Ord 17-05, §1, 3-8-05)

**Secs. 3-79 – 3-90. Reserved.**

## DIVISION 3. RESERVED

**Secs. 3-91 – 3-115. Reserved.**

## ARTICLE III. WILD OR DANGEROUS ANIMALS

### DIVISION 1. GENERALLY.

**Sec. 3-116. Keeping for exhibition purposes; keeping wild animal as pet.**

(a) No person shall exhibit or permit to be kept on their premises or any public place any wild animal for display or exhibition purposes, whether gratuitously or for a fee.

(b) The prohibitions in (a) of this section do not apply when the creatures are in the care, custody or control of a veterinarian for treatment.

(c) Public or private educational institutions, non-profit organizations, itinerant or transient carnivals, circuses or other theatrical performances may seek, from the Health Officer, a limited exemption from this section provided the display will be of limited duration and meet any other requirements or conditions mandated by the Health Officer. The person or organization having custody and control of any animal permitted by this section shall be responsible for compliance with all other provisions of this chapter while the animal remains within the City limits.

(d) No person shall keep or permit to be kept any wild animal as a pet.
(Code 1965, §23.11; Ord 59-04, §1, 4-27-04; Ord 17-05, §1, 3-8-05)

**Sec. 3-117. Feeding of deer or other wild animals prohibited.**

No person may place any salt, mineral, grain, fruit or vegetable material outdoors on any public or private property for the purpose of feeding whitetail deer or other wild animals.

(a) ***Presumption.*** There shall be a rebuttable presumption that either of the following acts are for the purpose of feeding whitetail deer:

(1) The placement of salt, mineral, grain, fruit or vegetable material in an aggregate quantity of greater than one-half (½) gallon at the height of less than six (6) feet off the ground.

(2) The placement of salt, mineral, grain, fruit or vegetable material in an aggregate quantity of greater than one-half (½) gallon in a drop feeder, automatic feeder or similar device regardless of the height of the grain, fruit or vegetable material.

(b) ***Exceptions***. This ordinance shall not apply to the following situations:

(1) Naturally growing materials. Naturally growing grain, fruit or vegetable material, including gardens.

(2) Bird feeders. Unmodified commercially purchased bird feeders or their equivalent.

(3) Authorized by the Common Council. Deer feeding may be authorized on a temporary basis by the Common Council for a specific purpose as determined by the Common Council.

(Ord 17-05, §1, 3-8-05)

**Cross reference(s) -** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Secs. 3-118 – 3-130. Reserved.**

## DIVISION 2. DANGEROUS ANIMALS

**Sec. 3-131. Procedure for declaring animal dangerous.**

(a) Upon conducting an investigation the humane or law enforcement officer may issue an order declaring an animal to be a dangerous animal. Whenever an owner or caretaker wishes to contest an order, he or she shall, within seventy-two (72) hours after receipt of the order, deliver to the Health Officer a written objection to the order stating specific reasons for contesting the order. Upon receipt of the written objection, the matter shall be placed on the Agenda for the Board of Health to be reviewed at the next regular meeting. The Board of Health shall act as a quasi-judicial body allowing the animal's owner or caretaker an opportunity to present evidence as to why the animal should not be declared dangerous.

(b) After the hearing, the owner or caretaker shall be notified in writing of the Board's determination. If the Board upholds the determination that the animal is dangerous, the owner or caretaker shall comply with the requirements of §3-132. If the owner or caretaker further contests the determination, he or she may, within five (5) days of receiving the panel's decision, seek review of the decision by the Circuit Court.

(c) Upon an animal being declared dangerous, the owner or caretaker shall immediately comply with leashing, muzzling and confinement requirements of §3-132 with all other requirements in that section being satisfied within thirty (30) days of the dangerous declaration or reaffirmation thereof, or within such time as established by the Board of Health.

(Code 1965, §23.06(4)(e); Ord 17-05, §1, 3-8-05 ; Ord 117-07, §1, 7-24-07)

**Sec. 3-132. Harboring dangerous animals.**

(a) ***Dangerous animals regulated.***

(1) No person may harbor or keep a dangerous animal within the city unless all provisions of this section are complied with. Any animal that is determined to be a prohibited dangerous animal under this division shall not be kept or harbored in the city.

(2) The issuance of a citation for a violation of this section need not be predicated on a determination that an animal is a dangerous animal.

(b) ***Registration***. The owner of any animal declared dangerous, shall register it with the Police Department upon disposition, and annually thereafter on or before April 1 of each year, by providing a current color photograph of

the animal and payment of a seventy-five dollar ($75.00) registration fee.

(c) ***Leash and muzzle.***

(1) No owner or caretaker, harboring or having the care of a dangerous animal may permit such an animal to go outside its dwelling, kennel or pen unless the animal is securely restrained with a leash no longer than four (4) feet in length.

(2) No person may permit a dangerous animal to be kept on a chain, rope or other type of leash outside its dwelling, kennel or pen unless a person who is sixteen (16) years of age or older, competent to govern the animal and capable of physically controlling and restraining the animal, is in physical control of the leash.

(3) A dangerous animal may be securely leashed or chained to an immoveable object, with the owner or caretaker being in the physical presence of the animal at all times when it is so leashed or chained.

(4) A dangerous animal outside of the animal's dwelling, kennel or pen shall be muzzled in a humane way by a muzzling device sufficient to prevent the animal from biting persons or other animals.

(d) ***Confinement***.

(1) Except when leashed and muzzled, all dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel that is located on the premises of the owner or caretaker and constructed in a manner that does not allow the animal to exit the pen or kennel on its own volition.

(2) When constructed in a yard, the pen or kennel shall, at a minimum, be constructed to conform to the requirements of this paragraph. The pen or kennel shall be child-proof from the outside and animal-proof from the inside. A strong metal double fence with adequate space between fences (at least two (2) feet) shall be provided so that a child cannot reach into the animal enclosure. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a dangerous animal shall be locked with a key or combination lock when the animal is within the structure. The structure shall either have a secure bottom or floor attached to the sides of the pen or the sides of the pen shall be embedded in the ground no less than two (2) feet. All structures erected to house dangerous animals shall comply with all city zoning and building regulations. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.

(3) *Indoor Confinement.* No dangerous animal may be kept on a porch, patio or in any part of a house or structure on the premises of the owner or caretaker that would allow the animal to exit the building on its own volition. No dangerous animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure.

(e) ***Signs.*** The owner or caretaker of a dangerous animal shall display, in prominent places on his or her premises near all entrances to the premises, signs in letters of not less than two (2) inches high warning that there is a dangerous animal on the property. A similar sign is required to be posted on the kennel or pen of the animal. In addition, the owner or caretaker shall conspicuously display a sign with a symbol warning children of the presence of a dangerous animal.

(f) ***Spay and neuter requirement.*** Within thirty (30) days after an animal has been designated dangerous, the owner or caretaker of the animal shall provide written proof from a licensed veterinarian that the animal has been spayed or neutered.

(g) ***Liability insurance.*** The owner or caretaker of a dangerous animal shall present to the Health Officer or Humane Officer a certificate of insurance that the owner or caretaker has procured liability insurance in an amount not less than $1,000,000 for any personal injuries inflicted by the dangerous animal. Whenever such policy is cancelled or not renewed, the insurer and animal's owner or caretaker shall notify the Health Officer or Humane Officer of such cancellation or non renewal in writing by certified mail.

(h) ***Waiver by Board of Health***. Upon request, by the owner or caretaker, the Board of Health may waive any requirement specified in subsections (a) through (g) that is deemed to be inappropriate for a particular dangerous animal.

(i) ***Notification***. The owner or caretaker shall notify the police department within twenty-four (24) hours if a dangerous animal is at large, is unconfined, has attacked another animal or has attacked a human being or has died.

No person may sell or transfer possession of a dangerous animal to another person without first notifying the person to whom the dangerous animal is being sold or transferred of the fact that such animal is a dangerous animal and of any requirements imposed upon the selling or transferring party by this division. No person may sell or transfer possession of a dangerous animal to another person, agency, organization or the like without first notifying the Police Department in writing, at least three (3) days in advance of the sale or transfer of possession with the name, address and telephone number of the new owner of the dangerous animal. If the dangerous animal is sold or given away to a person residing outside the city, the owner or caretaker shall present evidence to the Police Department showing that he or she has notified the Police Department, or other law enforcement agency of the animal's new residence, including the name, address and telephone number of the new owner of the dangerous animal.

(j) ***Euthanasia.*** If the owner or caretaker of an animal that has been designated a dangerous animal is unwilling or unable to comply with the regulations for keeping the animal in accordance with this section, he or she may have the animal humanely euthanized by an animal shelter, the humane society or a licensed veterinarian.

(k) ***Waiver.*** The Health Officer may waive the provisions of subsections (b) to (g) for a law enforcement or military animal upon presentation by the animal's owner or handler of satisfactory arrangement for safe keeping of the animal.
(Ord 17-05, §1, 3-8-05)

**Sec. 3-133. Certain animals not be declared dangerous.**

Notwithstanding the definition of a dangerous animal in §3-1:

(a) No animal may be declared dangerous if death, injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a trespass on the land or criminal trespass on the dwelling upon premises occupied by the owner of the animal; was teasing, tormenting, abusing or assaulting the animal; or was committing or attempting to commit a crime or violating or attempting to violate an ordinance which protects persons or property.

(b) No animal may be declared dangerous if death, injury or damage was sustained by a domestic animal which, at the time such was sustained, was teasing, tormenting, abusing or assaulting the animal.

(c) No animal may be declared dangerous if the animal was protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.

(d) No animal may be declared dangerous for acts committed by the animal while being utilized by a law enforcement agency for law enforcement purposes while under the control and direction of a law enforcement officer.
(Code 1965, §23.02(p); Ord 17-05, §1, 3-8-05)

**Sec. 3-134. Prohibited dangerous animals.**

(a) ***Not allowed in city.*** No person may bring into or keep in the city any animal that is a prohibited dangerous animal under this section.

(b) Determination of a prohibited dangerous animal.

(1) The Health Officer or Police Department may determine an animal to be a prohibited dangerous animal whenever the Health Officer or Police Department finds that an animal meets the definition of prohibited dangerous animal or is a dangerous animal in non-compliance with any of the provisions of §3-132.

(2) Upon conducting an investigation and finding an animal meets the definition of a prohibited dangerous animal, the Police Department may issue an order declaring an animal to be a prohibited dangerous animal. Whenever an owner or caretaker wishes to contest an order, he or she shall, within seventy-two (72) hours after receipt of the order, deliver to the Health Officer a written objection to the order stating specific reasons for contesting the order. Upon receipt of the written objection, the matter shall be placed on the agenda for the Board of Health to be reviewed at the next regular meeting. The Board of Health shall act as a quasi-judicial body allowing the animal's owner or caretaker an opportunity to present evidence as to why the animal should not be declared a prohibited dangerous animal.

(3) Pending the outcome of the hearing, the animal may be confined subject to Sec. 173.21, Wis. Stats., or held at a location outside the limits of the City.

(4) After the hearing, the owner or caretaker shall be notified in writing of the Board's determination. If a determination is made that the animal is a prohibited dangerous animal, the owner or caretaker shall comply with subsection (a) within five (5) days after the date of the determination. If the owner or

caretaker further contests the determination, he or she may, within five (5) days of receiving the panel's decision, seek review of the decision by the Circuit Court.

(c) ***Destruction.*** Any dog that has caused bodily harm to a person, persons or a domestic animal on two (2) separate occasions off the owner's premises, without reasonable cause, may be destroyed as a result of judgment rendered by a court of competent jurisdiction, as specified under sec. 174.02(3), Wis. Stats. The City Attorney may petition an appropriate court to obtain a court order to destroy such a dog.

(d) ***Enforcement.*** The Health Department and Police Department may make whatever inquiry is deemed necessary to ensure compliance with this section.

(e) ***Waiver.*** The Health Officer may waive the provisions of this section for a law enforcement or military animal upon presentation by the animal's owner or handler of a satisfactory arrangement for safe keeping of the animal.
Ord 17-05, §1, 3-8-05)

*(The next page is 267)*

# Chapter 4

# Buildings

**ARTICLE I. IN GENERAL**
Maintenance of buildings ..... 4-1
Alterations and repairs ..... 4-2
Building numbering ..... 4-3
Reserved ..... 4-4 – 4-20

**ARTICLE II. ADMINISTRATION AND ENFORCEMENT**
DIVISION 1. GENERALLY
Board of Building Inspection ..... 4-21
Authority to prescribe additional rules and regulations ..... 4-22
Modification of regulations ..... 4-23
Violations generally; penalty ..... 4-24
Notice of violation ..... 4-24(a)
Prosecution of violations ..... 4-24(b)
Penalty ..... 4-24(c)
Abatement of violation ..... 4-24(d)
Stop work order ..... 4-25
Notice ..... 4-25(a)
Unlawful continuance of work ..... 4-25(b)
Appeals ..... 4-26
Reserved ..... 4-27 – 4-45
DIVISION 2. INSPECTIONS DIVISION
Generally ..... 4-46
Reserved ..... 4-47
Inspections Supervisor ..... 4-48
Assistants to Inspection Supervisor ..... 4-49
Appointment ..... 4-49(a)
Qualifications ..... 4-49(b)
Reserved ..... 4-50 – 4-65
DIVISION 3. PERMITS
Required; exception ..... 4-66
Application; generally ..... 4-67
Submission ..... 4-67(a)
Description of work ..... 4-67(b)
Plans and specifications ..... 4-67(c)
Plot diagram ..... 6-67(d)
Amendments to application ..... 4-68
Time limitation on application ..... 4-69
Action on application ..... 4-70
Approval of work in part ..... 4-71
Payment of fees ..... 4-72
Signing of permit; approved plans ..... 4-73
Posting ..... 4-74
Suspension or abandonment of work ..... 4-75
Compliance ..... 4-76
Making false application ..... 4-77
Eligibility for permit when order pending against applicant ..... 4-78
Reserved ..... 4-79 – 4-95

DIVISION 4. INSPECTIONS
Generally....4-96
Time of inspections; notification of department....4-97
Final inspection....4-98
Right of entry....4-99
Reserved....4-100 – 4-115
DIVISION 5. CERTIFICATE OF USE AND OCCUPANCY
Required....4-116
New buildings....4-116(a)
Alteration of building....4-116(b)
Issuance – generally....4-117
Same – existing buildings....4-118
Changes in use and occupancy....4-119
Temporary certificate of occupancy....4-120
Reserved....4-121 – 4-135

**ARTICLE III. BUILDINGS**
DIVISION 1. GENERALLY
State building code, existing buildings regulations adopted....4-136
Fire limits designated....4-137
Construction in fire limits – certain remodeling, repairs prohibited....4-138
Same – construction standards generally....4-139
Restrictions....4-139(a)
Waiver of requirements....4-139(b)
Uniform Dwelling Code....4-140
Adoption of State code....4-140(a)
Enforcement....4-140(b)
Applicability....4-140(c)
Garages and accessory buildings....4-141
Unattached....4-141(a)
Attached....4-141(b)
Construction time frame....4-141(c)
Garage door required....4-141(d)
Boarding of vacant buildings....4-142
Vacant structures....4-142(a)
Maintenance generally....4-143
Reserved....4-144 – 4-160
DIVISION 2. PERMITS
Permit fees....4-161
Generally....4-161(a)
One- (1-) and Two- (2-) family dwellings....4-161(a)(1)
Multifamily dwellings....4-161(a)(2)
Offices and mercantile buildings....4-161(a)(3)
Factories; warehouses....4-161(a)(4)
Alterations....4-161(a)(5)
Demolition....4-161(a)(6)
Moving of buildings....4-161(a)(7)
Swimming pools....4-161(a)(8)
Fences....4-161(a)(9)
Penalty for commencing work without permit....4-161(b)
Miscellaneous fees....4-162
Submission of plans to State Department of Safety and Professional Services....4-163
Restrictions on permit issuance – location of lot; platting....4-164
Same – requirements for utilities and street improvements....4-165
Reserved....4-166 – 4-180

DIVISION 3. UNSAFE BUILDINGS
Right of condemnation ..... 4-181
Examination and record when building reported as unsafe ..... 4-182
Notice of unsafe conditions ..... 4-183
Contents; time limits ..... 4-183(a)
Service by mail or posting ..... 4-183(b)
Restoration of building ..... 4-184
Failure to comply with order ..... 4-185
Buildings, structures, dwelling unit, equipment which are unsafe or unfit for human habitation ..... 4-186
Inspection ..... 4-186(a)
Order to discontinue occupancy or use ..... 4-186(b)
Closing of unsafe or unfit buildings ..... 4-186(d)
Placarding of unfit/unsafe buildings ..... 4-186(e)
Emergency repairs ..... 4-187
Demolition of buildings ..... 4-188
Permits ..... 4-188(a)
Utility disconnections ..... 4-188(b)
Sewer and water connections ..... 4-188(c)
Property to be protected ..... 4-188(d)
Property to be secured ..... 4-188(e)
Unguarded pits a nuisance ..... 4-188(f)
Obstruction of streets ..... 4-188(g)
Completion of project ..... 4-188(h)
Reserved ..... 4-189 – 4-205
DIVISION 4. MOVING OF BUILDINGS AND STRUCTURES
Permit required; application ..... 4-206
Issuance of permit; permit fee ..... 4-207
Approval of relocation in city; old buildings ..... 4-208
Route, time limits and safety requirements ..... 4-209
Supervision of operation; trimming of trees ..... 4-210
Small buildings; buildings to be moved out of city ..... 4-211
Police escort ..... 4-212
Reserved ..... 4-213 – 4-230

**ARTICLE IV. HOUSING**
Definitions ..... 4-231
Purpose of article; declaration of nuisance ..... 4-232
Interpretation of article ..... 4-233
Applicability of article ..... 4-234
Buildings unfit for human habitation ..... 4-235
Maintenance generally ..... 4-236
Responsibilities of occupant ..... 4-237
Sanitary facilities; access; entrances and exits ..... 4-238
Lighting, ventilation and heating ..... 4-239
Occupancy arrangement and size of rooms ..... 4-240
Non-dwelling structures, fences and drainage ..... 4-241
Reserved ..... 4-242 – 4-260

**ARTICLE V. PLUMBING**
DIVISION 1. GENERALLY
Definitions ..... 4-261
State plumbing code adopted ..... 4-262
Inspection of new work ..... 4-263
Inspection of rental properties, relocated buildings ..... 4-264

Bond required for work in public right-of-way ..... 4-265
Correction of unsanitary installations ..... 4-266
Supervision of sewer and water services ..... 4-267
Street openings ..... 4-268
Requirements ..... 4-268(a)
Connections to public sewer ..... 4-269
Record of sewers ..... 4-269(a)
Location of branches; new connections ..... 4-269(b)
Record of connections ..... 4-269(c)
Minimum depth ..... 4-269(d)
Connection to public sewers and water mains required ..... 4-270
Discharge of drains and sewers ..... 4-271
Certain discharged prohibited ..... 4-271(a)
Discharges to storm sewers ..... 4-271(b)
Discharge to public streets ..... 4-271(c)
Discharge onto sidewalks ..... 4-271(d)
Other discharges ..... 4-271(e)
Sealing of unused sewer and water services ..... 4-272
Building sewers and building drains ..... 4-273
Waste pipes and vents ..... 4-274
Clearwater separation requirements and inspection of pre-1980 residential properties ..... 4-275
Reserved ..... 4-276 – 4-290
DIVISION 2. PERMITS
Required; exception ..... 4-291
Plumbing fees ..... 4-292
Issuance for new or relocated building ..... 4-293
Persons not eligible for permit ..... 4-294
Expiration ..... 4-295
Cancellation for violation ..... 4-296
Cancellation on request of plumber or owner ..... 4-297
Reserved ..... 4-298 – 4-315
DIVISION 3. PLANS
Applicability of division ..... 4-316
Plans to be approved by City Inspections Division ..... 4-317
Plans to be approved by State Department of Health and Social Services ..... 4-318
Compliance with approved plans required ..... 4-319
Stamping and signing of plans ..... 4-320
Submission of plans ..... 4-321
Plan examination fees ..... 4-322
Revisions ..... 4-323
Liability for defects in work ..... 4-324
Copy of plans to be kept at construction site ..... 4-325
Reserved ..... 4-326 – 4-340

**ARTICLE VI. ELECTRICAL**
DIVISION 1. GENERALLY
Definitions ..... 4-341
Adoption of State Electrical Code ..... 4-342
Enforcement generally ..... 4-343
Authority to discontinue electrical service ..... 4-344
Periodic inspection ..... 4-345
Notification for inspection; concealment of wiring ..... 4-346
Exemption from inspections ..... 4-347
Certificate of Inspection ..... 4-348

Exceptions to construction requirements....4-349
Review of condemnation order....4-350
Liability for defects in work....4-351
Reserved....4-352 – 4-390
DIVISION 2. LICENSE
Required....4-391
Contractor's license....4-391(a)
Master's license....4-391(b)
Exemptions....4-392
Industrial electricians....4-393
Issuance; term....4-394
Fees....4-395
Reserved....4-396
Revocation....4-397
Reserved....4-398 – 4-415
DIVISION 3. PERMITS
Application; issuance....4-416
Exemption for industrial electricians....4-417
Electrical fees....4-418
Generally....4-418(a)
One- and two-family dwellings....4-418(b)
Multiple-family dwellings....4-418(c)
Commercial or industrial buildings....4-418(d)
Change of service....4-418(e)
Penalty for commencing work without permit....4-418(f)
Reinspection....4-418(g)
Use of license to obtain permit for another....4-419
Temporary installations....4-420
Reserved....4-421 – 4-435

**ARTICLE VII. MECHANICAL**
DIVISION 1. GENERALLY
Penalty for violation of article....4-436
Inspections....4-437
Appeals....4-438
Reserved....4-439 – 4-455
DIVISION 2. BOARD OF HEATING EXAMINERS
Membership; organization....4-456
Procedures....4-457
Reserved....4-458 – 4-475
DIVISION 3. LICENSE
Required....4-476
Generally....4-476(a)
Firms, partnerships and corporations....4-476(b)
Persons considered licensed....4-476(c)
Exemption for homeowners....4-476(d)
Application....4-477
Fee; renewal....4-478
Examinations....4-479
Revocation; suspension....4-480
Reserved....4-481 – 4-495
DIVISION 4. PERMITS
Required....4-496

Heating fees....4-497
Residential heating systems.... 4-497(a)
Residential alterations.... 4-497(b)
Residential central air conditioning.... 4-497(c)
Commercial and industrial installations.... 4-497(d)
Stoves; fireplaces.... 4-497(e)
Late penalty....4-497(f)
Penalty for commencing work without permit.... 4-497(g)
Application; issuance....4-498
Use of license to obtain permit for another....4-499
Reserved....4-500 – 4-515
DIVISION 5. INSTALLATION STANDARDS
Forced warm winter air conditioning....4-516
Perimeter heating....4-517
Reserved.... 4-418 - 4-520
Electric heating....4-521
Oil burners and oil burner equipment for single- and two-family residences....4-522
Definitions.... 4-522(a)
Approval standards.... 4-522(b)
Air supply.... 4-522(c)
Fuel oil tanks.... 4-522(d)
Reserved....4-523
Gas-fired equipment....4-524
Generally.... 4-524(a)
Design and conversion of central heating furnaces.... 4-524(b)
Room heaters.... 4-524(c)
Floor furnaces.... 4-524(d)
Recessed wall heaters.... 4-524(e)
Duct furnaces....4-524(f)
Unit heaters.... 4-524(g)
Gas-fired water heaters.... 4-524(h)
Gas flues and vents....4-524(i)
Gas piping....4-524(j)
Gas storage tanks.... 4-524(k)
Reserved....4-525 – 4-540

**ARTICLE VII. SWIMMING POOLS**
Purpose of article....4-541
Definition....4-542
Applicability of article....4-543
Existing pools....4-544
Penalty for violation of article....4-545
Permits....4-546
Building permit.... 4-546(a)
Plumbing and electrical permits.... 4-546(b)
Penalty for commencing work without a permit.... 4-546(c)
Variances....4-547
Location on lot....4-548
Protective enclosures....4-549
Required.... 4-549(a)
Exception.... 4-549(b)
Lighting....4-550
Drainage....5-551
Maintenance....5-552

## ARTICLE I. IN GENERAL

**Sec. 4-1. Maintenance of buildings.**

All buildings and structures and all parts thereof, both existing and new, shall be maintained in a safe and sanitary condition. All service equipment, means of egress, devices and safeguards which are required by this chapter in a building or which were required by a previous statute in a building when erected, altered or repaired shall be maintained in good working order.
(Code 1965, §14.10)

**Sec. 4-2. Alterations and repairs.**

Except as otherwise provided in this chapter, existing buildings, when altered or repaired as specified in this chapter, shall be made to conform to the full requirements of this chapter for new buildings.
(Code 1965, §14.11)

**Sec. 4-3. Building numbering.**

(a) Each building erected in the city shall be assigned a building number by the Inspections Division in accordance with the building number map which is on file in the office of the Department of Public Works. Only those numbers assigned as provided in this section shall be used on each building. Each owner must fasten or paint a permanent, light reflecting, legible building number of a conspicuous color contrasting to the building background color, which shall be no less than four (4) inches in height on all buildings on the front face of the building within four (4) feet of the principal entrance door abutting the street. If this location is deemed impractical by the Inspections Division or Fire Department, the building numbers on residential properties may be placed on the garage on the side closest to the principle entrance or a location approved by the Inspections Division and the Fire Department. The address number shall be readily visible from the street and shall not be obstructed by any structural element, plant, tree, shrub or similar obstruction. Address numbers may not be in a script typeface. If the principal entrance to a structure is not on the assigned address street then the property owner must have the above-mentioned address numbers posted at more than one entrance or location on that building.

(b) Mobile home numbers will be placed in a uniform area on each unit within the mobile home park. The number shall be placed on or as close as possible to the entrance door and shall be visible from the public right-of-way readily abutting the property.

(c) If the building is set back forty (40) feet or more from the front property line, the property owner must place and maintain the required numbers on a mailbox or a signpost located at or near the front property line.

(d) Commercial buildings situated in a manner that may create confusion for emergency personnel responding to the rear side of such building shall also post their business address on their back doors. This section shall apply to commercial buildings including, but not limited to, multiple tenant strip malls, buildings serviced with alleyways such as downtown areas and single buildings with multiple tenants with individual rear doors for each tenant. This section shall not apply to stand alone commercial buildings occupied by a single tenant.
(Code 1965, §5.02; Ord 122-93, §1, 8-18-93; Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 9-98, §1, 2-18-98, Ord 71-99, §1, 10-10-99; Ord 55-07, §1, 3-13-07; Ord 172-08, §1, 11-25-08)

**Secs. 4-4 – 4-20. Reserved.**

## ARTICLE II. ADMINISTRATION AND ENFORCEMENT

### DIVISION 1. GENERALLY

**Sec. 4-21. Board of Building Inspection.**

(a) The Board of Building Inspection shall consist of the Mayor, City Attorney, Director of Public Works, Fire Chief, Inspection Supervisor and one (1) Alderperson appointed by the Mayor subject to confirmation by the Common Council at the annual organizational meeting of the Council. The Inspection Supervisor shall serve as secretary without vote.

(b) The City Attorney, Director of Public Works and Fire Chief may designate an alternate to attend in their absence. The alternate shall be counted towards determining a quorum and will be entitled to vote on items brought before the board.
(Code 1965, §1.04(12); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96, Ord 12-02, §1, 3-11-02)
**Cross reference(s)--**Board, committees, commissions, §2-51 et seq.

**Sec. 4-22. Authority to prescribe additional rules and regulations.**

The Inspection Supervisor shall have the power, as may be necessary in the interest of public safety, health and general welfare, to promulgate rules and regulations to interpret and implement the provisions of this chapter under the supervision of the Board of Building Inspection. The Inspections Division shall review and suggest changes in this chapter annually for Council action. Rules and regulations adopted under this section shall be approved by the Common Council and, when so approved, a violation thereof shall be subject to §4-24.
(Code 1965, §14.05; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-23. Modification of regulations.**

When there are practical difficulties involved in carrying out structural or mechanical provisions of this chapter or of an approved rule, the Inspection Supervisor may vary or modify such provision upon application of the owner or his representative, provided that the spirit and intent of this chapter shall be observed and public welfare and safety shall be ensured. The application for modification and the final decision of the Inspections Supervisor shall be in writing and shall be officially recorded with the permanent application for the permit in the permanent records of the Inspections Division.
(Code 1965, §14.09; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-24. Violations generally; penalty.**

(a) ***Notice of violation.*** The Inspection Supervisor shall serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, use or occupancy of a building or structure in violation of the provisions of this chapter, in violation of a detailed statement or a plan approved under this chapter, or in violation of a permit or certificate issued under the provisions of this chapter. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

(b) ***Prosecution of violation.*** If the notice of violation is not complied with promptly, the Inspection Supervisor shall request the City Attorney to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or structure in violation of the provisions of this chapter or of the order or direction made pursuant thereto.

(c) ***Penalty***. Any person who shall violate a provision of this chapter or fail to comply with any of the requirements of this chapter or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the Inspection Supervisor or of a permit or certificate issued under the provisions of this chapter shall be subject to a penalty as provided in §1-16.

(d) ***Abatement of violation***. The imposition of the penalty prescribed in this section shall not preclude the City Attorney from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to stop an illegal act, conduct business or use of a building or structure in or about any premises.
(Code 1965, §14.13; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)
**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 4-25. Stop work order.**

(a) ***Notice.*** Upon notice from the Inspection Supervisor that work on any building or structure is being prosecuted contrary to the provisions of this chapter, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, to the owner's agent or to the person doing the work, and shall state the conditions under which work may be resumed.

(b) ***Unlawful continuance of work***. Any person who shall continue any work in or about the building after having

been served with a stop work order, except such work as he is directed to perform to remove a violation or unsafe condition, shall be subject to a penalty as provided in §4-24.
(Code 1965, §14.12; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)
**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 4-26. Appeals.**

Any person feeling himself aggrieved by any order or ruling of the Inspection Supervisor may appeal such order or ruling to the Board of Building Inspection within ten (10) days after written notice of the order or ruling has been delivered to him. Such appeal shall be in writing, setting forth the order from which such appeal is taken, and shall be filed with the Mayor, who shall call a meeting of the Board within a reasonable time. Such appeal shall be accompanied by a fee of forty-five dollars ($45.00) to cover the costs of the appeal. At the time of the meeting of the Board of Building Inspection to consider the appeal from the ruling of the Inspection Supervisor, appearance for the appeal may be made by the owner, lessee of the building, builder or any authorized agent appointed by an interested party.
(Code 1965, §14.14; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Secs. 4-27 – 4-45. Reserved.**

## DIVISION 2. INSPECTIONS DIVISION

**Sec. 4-46. Generally.**

The Inspections Division shall include the building, plumbing, electrical, heating, ventilating and erosion control inspectors.
(Code 1965, §14.01; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 176-93, §1, 10-19-93; Ord 52-96, §1, 6-5-96; Ord 118-96, §1, 12-18-96, Ord 71-99, §1, 10-10-99)

**Sec. 4-47. Reserved.**

**Sec. 4-48. Inspections Supervisor.**

The Inspections Supervisor may designate an employee as his deputy who shall exercise all the powers of the Inspections Supervisor during the temporary absence or disability
(Code 1965, § 14.03: Ord 32-92, § 1, 3-18; Ord 174-93, § 1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-49. Assistants to Inspections Supervisor.**

(a) ***Appointment.*** The Inspections Supervisor shall appoint such officers, technical assistants, inspectors and other employees as shall be necessary for the administration of this chapter.

(b) ***Qualifications.***

(1) ***Generally***. Assistants to the Inspection Supervisor shall be chosen on the basis of merit, training and experience. They shall be appointed from a list furnished by the state or local civil service board under the rules of such board. All licensed technicians shall meet the state qualifications for their particular positions.

(2) ***Electrical inspectors.*** Any person appointed to do electrical inspections shall:

a. Be a competent electrician and have at least six (6) years of experience as a journeyman in the practice of his trade or four (4) years of training in a recognized college of electrical engineering;

b. Have all the qualifications of a master electrician; and

c. Be well-versed in approved methods of electrical construction for safety of life and property, the statutes of the state relating to electrical work, the rules and regulations issued by the Industrial Commission of the State under the authority of the statutes, the National Board of Fire Underwriters and the National Safety Code of the Bureau of Standards.

(Code 1965, §14.04; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Secs. 4-50 – 4-65. Reserved.**

## DIVISION 3. PERMITS

**Sec. 4-66. Required; exception.**

(a) No person shall excavate for a building; construct, enlarge, alter, remove or demolish or change the occupancy of a building from one use to another requiring greater strength, exit or sanitary provisions or change to a prohibited use; or install or alter any wiring equipment or electrical, plumbing, heating and ventilating facilities for which provision is made or the installation of which is regulated by this chapter without first filing an application with the Inspection Supervisor on the form provided in writing and obtaining the required permit therefore, except that ordinary repairs which do not involve any violation of this chapter shall be exempt from this provision.

(b) Ordinary repairs to buildings may be made without application or notice to the Inspection Supervisor; but such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support or the removal or change of any required means of egress or rearrangement of parts of a structure affecting the exit requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electrical wiring, or mechanical or other work affecting public health or general safety.

(Code 1965, §14.06(1); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-67. Application generally.**

(a) ***Submission.*** Application for a permit under this division shall be made by the owner or lessee of the building or structure or agent of either or by the licensed engineer or architect employed in connection with the proposed work. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

(b) ***Description of work.*** The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building, and such additional information as may be required by the Inspection Supervisor.

(c) ***Plans and specifications***. The application for the permit shall be accompanied by not less than three (3) copies of specifications, if any, and of plans drawn to scale on paper not less than twelve (12) inches by eighteen (18) inches in size with sufficient clarity and detailed dimensions to show the nature and character of the work to be performed. Plans shall include floor plans and a front elevation. In addition,

the Fire Department shall be sent two (2) copies of plans for any building subject to the Wisconsin Administrative Code, SPS chapters 350 through 364, 366 and 369.

(d) ***Plot diagram.*** There shall also be filed a plot plan showing to scale the size and location of all the new construction and all existing structures on the site and distances from lot lines and the established street grades. The plot plan shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the plot plan shall show all construction to be demolished and the location and size of all existing buildings and construction that are to remain on the site or plot.
(Code 1965, §14.06(2)-(5); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 85-97, §1, 10-15-97; Ord 25-12, §1, 3-7-12)

**Sec. 4-68. Amendments to application.**

Subject to the limitations of §4-70, major changes to a plan, application or other records accompanying the plan or application may be filed at any time before completion of the work for which the permit is sought or issued under this division. Such major changes shall be deemed part of the original application and shall be filed therewith.
(Code 1965, §14.06(6))

**Sec. 4-69. Time limitation on application for permit and completion of work.**

(a) An application for a permit pursuant to this division for any proposed work shall be deemed to have been abandoned six (6) months after the date of filing unless such application has been diligently prosecuted or a permit has been issued; except that, for reasonable cause, the Inspection Supervisor may grant one (1) or more extensions of time for additional periods not exceeding ninety (90) days each.

(b) Permits shall be valid for a maximum period of two (2) years from the date of issuance. All work for which the permit was issued shall be completed in its entirety and brought into compliance within that period of time. A time extension may be granted by the Inspections Supervisor or designee if circumstances warrant. At such time a permit has expired, and if work is not completed, it shall be the responsibility of the permittee to renew such permit by completing the required form and submitting the appropriate fee.

(c) Failure to obtain or renew a required permit shall result in assessment of a permit fee that is triple the otherwise prescribed permit fee. Payment of any fee mentioned in this subsection shall in no way relieve any person of other penalties that may also be imposed.
(Code 1965, §14.06(7); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 74-06, §1, 5-23-06)

**Sec. 4-70. Action on application.**

The Inspection Supervisor shall examine or cause to be examined all applications for permits under this division and amendments thereto within forty-eight (48) hours time after filing. If the application or the plans do not conform to the requirements of all pertinent laws, he shall reject such application in writing stating the reasons therefore. If he is satisfied that the proposed work conforms to the requirements of this chapter and all laws and ordinances applicable thereto, he shall issue a permit therefore as soon as practicable. Street grades, sidewalk grades and benchmarks are available in the Engineering Division of the Department of Public Works.
(Code 1965, §14.06(8); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-71. Approval of work in part.**

The Inspection Supervisor may issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building have been submitted, provided adequate information and detailed statements have been filed complying with all the pertinent requirements of this chapter. The holder of such permit for the foundations or other part of a building or structure shall proceed at his own risk with the building operation and without assurance that a permit for the entire structure will be granted.
(Code 1965, §14.06(13); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-72. Payment of fees.**

No permit shall be issued under this division until the fees required in this chapter have been paid.
(Code 1965, §14.06(15))

**Sec. 4-73. Signing of permit; approved plans.**

(a) The Inspection Supervisor shall sign every permit issued under this division and the permit shall also be signed by those assistants in charge of specific inspections in any building.

(b) The Inspection Supervisor shall stamp or endorse in writing both sets of corrected plans "approved". One (1) set of such approved plans shall be retained by him and the other set shall be kept at the building site, open to inspection of the Inspection Supervisor or his authorized representative at all reasonable times.
(Code 1965, §14.06(11), (12); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-74. Posting.**

A true copy of the permit required under this division

shall be kept on the site of operations open to public inspection during the entire time of prosecution of the work and until the completion of the work.
(Code 1965, §14.06(14))

**Sec. 4-75. Suspension or abandonment of work.**

Any permit issued pursuant to this division shall be void if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing the work.
(Code 1965, §14.06(9))

**Sec. 4-76. Compliance.**

(a) The permit issued under this division shall be authority to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of this chapter, except as specifically stipulated by modification or legally granted variation as described in the application.

(b) All work shall conform to the approved application and plans for which the permit has been issued and any approved amendments thereto.

(c) All new work shall be located strictly in accordance with the approved plot plan.

(d) No lot or plot shall be changed, increased or diminished in area from that shown on the official plot plan, unless a revised diagram showing such changes, accompanied by the necessary affidavit of the owner or applicant, has been filed and approved; except that such revised plot plan will not be required if the change is caused by reason of an official street opening, street widening or other public improvement.
(Code 1965, §14.06(16)-(19))

**Sec. 4-77. Making false application.**

The Inspection Supervisor may revoke a permit or approval issued under the provisions of this division in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.
(Code 1965, §14.06(20); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-78. Eligibility for permit when order pending against applicant.**

No building, plumbing, sewer, electrical, heating and ventilating or sign permit shall be granted to any applicant against whom a written stop work, correction, repair or change order issued by the division is pending for thirty (30) days or more. Upon acceptance by the Inspections Division of the corrective work being accomplished, the applicant will again be eligible for further permits. Any stop work, correction, repair or change order issued shall be based on noncompliance with an applicable state or local code requirement. Where the applicant against whom an order has been issued filed an application with the Board of Appeals or the Board of Building Inspection for a variance of the code requirements upon which the order is based, the order shall be held in abeyance until a decision has been reached by the respective board.
(Code 1965, §14.06(21); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Secs. 4-79 – 4-95. Reserved.**

## DIVISION 4. INSPECTIONS

**Sec. 4-96. Generally.**

Before issuing a permit under this article, the Inspection Supervisor shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a permit to construct, enlarge, alter, repair, remove, demolish or change the use thereof. The Supervisor shall conduct such inspections from time to time during and upon completion of the work for which he has issued a permit and he shall maintain a record of all such examinations and inspections and of all violations of this chapter.
(Code 1965, §14.07(1); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-97. Time of inspections; notification of department; early occupancy; penalties.**

(a) Footings, foundations and slabs shall be inspected before concrete is poured and excavations are backfilled.

(b) Framing construction, rough carpentry, plumbing, electrical, HVAC and the like shall be inspected after mechanical work is roughed in and before insulation, lathing, plastering or any other type of concealment of any areas requiring inspection.

(c) Permit holders shall schedule all necessary inspections as soon as practicable after work is completed. Such inspections shall be made by the end of the second business day following the day of notification, excluding Saturdays, Sundays and legal holidays. Each construction phase set forth herein shall be inspected and approved prior to being concealed.

(d) The space under construction, as noted on the permit, shall not be occupied until the area has been inspected and approved for occupancy unless early occupancy is authorized by the Inspections Supervisor or designee. In the event that early occupancy is authorized, it shall not relieve the permit holder from timely completing the permitted work in accordance with applicable codes.

(e) Violations of this section may be subject to penalties under §4-24.
(Code 1965, §14.07(2); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 75-06, §1, 5-23-06; Ord 55-09, §1, 4-28-09; Ord 31-12, §1, 4-4-12))

**Sec. 4-98. Final inspection.**

(a) A final inspection shall be obtained by the permit holder as soon as practicable after completion of the permitted work, and no more than thirty (30) days after such completion. This inspection shall be conducted before the issuance of a Certificate of Use and/or Occupancy and shall note all violations of the approved plans and notify the permit holder of the discrepancies. Any discrepancies shall be corrected in a timely manner as established by the Inspections Supervisor or designee. Upon approval, the Inspections Division shall post a *Certificate of Inspection* on the job. After such certificate has been posted, no structural part of the building shall be changed.

(b) Failure to obtain a final inspection as soon as practicable after completion of work, and prior to occupancy when applicable, so that the permit may be closed, may be considered a violation of this section and subject to penalties under §4-24 and may also result in future permits not being issued to the applicant until such time as the permit for the otherwise completed work is closed.
(Code 1965, §14.07(3); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 76-06, §1, 5-23-06)

**Sec. 4-99. Right of entry.**

In the discharge of his duties, the Inspection Supervisor or his authorized representative shall have the authority to enter at any reasonable hour any building, structure or premises in the City to enforce the provisions of this chapter. The Inspection Supervisor or his duly authorized representative shall have the authority to enter, during reasonable hours, those buildings of public use and occupancy to inspect for any violation of this chapter for the purpose of public protection.
(Code 1965, §14.07(4); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Secs. 4-100 – 4-115. Reserved.**

## DIVISION 5. CERTIFICATE OF USE AND OCCUPANCY

### Sec. 4-116. Required.

(a) ***New buildings***. No building erected shall be used or occupied in whole or in part until the Certificate of Use and Occupancy has been issued by the Inspection Supervisor.

(b) ***Alteration of building.*** No building enlarged, extended or altered to change from one use to another, in whole or in part, and no building altered for which a certificate of use in occupancy has not been issued, shall be occupied or used until the certificate has been issued by the Inspection Supervisor certifying that the work has been completed in accordance with the provisions of that approved permit; except that any use or occupancy which was not discontinued during the work of alteration shall be discontinued within thirty (30) days after the completion of the alteration unless the required certificate is secured from the Inspection Supervisor.
(Code 1965, §14.08(1), (2); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

### Sec. 4-117. Issuance – generally.

When a building or structure is entitled thereto, the Inspection Supervisor shall issue a Certificate of Use and Occupancy within a reasonable length of time after written application.
(Code 1965, §14.08(6); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

### Sec. 4-118. Same – existing buildings.

Upon written request from the owner of an existing building, the Inspection Supervisor shall issue a Certificate of Use and Occupancy, provided there are no violations of law or orders of the Inspections Supervisor pending and it is established after inspection and investigation that the alleged use of the building has heretofore existed. Nothing in this chapter shall require the removal, alteration or abandonment of or prevent the continuance of the use and occupancy of a lawfully existing building, unless such use is deemed to endanger public safety and welfare.
(Code 1965, §14.08(3); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

### Sec. 4-119. Changes in use and occupancy.

No change of use shall be made unless all the applicable provisions of this chapter are complied with. No change from one prohibited use to any other prohibited use shall be permitted.
(Code 1965, §14.08(4))

### Sec. 4-120. Temporary certificate of occupancy.

Upon the request of a holder of a permit, the Inspection Supervisor may issue a temporary certificate of occupancy for a building or structure or part thereof before the entire work covered by the permit has been completed, provided such portion may be occupied safely prior to full completion of the building without endangering life or public welfare.
(Code 1965, §14.08(5); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

### Secs. 4-121 – 4-135. Reserved.

## ARTICLE III. BUILDINGS

## DIVISION 1. GENERALLY

### Sec. 4-136. State building code, existing buildings regulations adopted.

Wisconsin Administrative Code, SPS Chapters 330 – 366, are adopted by reference and made part of this article with the same force and effect as through set out in full in this article.
(Code 1965, §15.01; Ord 85-97, §1, 10-15-97; Ord 38-09, §1, 3-10-09; Ord 25-12, §1, 3-7-12)

### Sec. 4-137. Fire limits designated.

All property located in the CBD central business district, the M-1 industrial park district and the M-2 general industrial district shall be considered as being within the fire limits of the City.
(Code 1965, §4.10(1); Ord 85-97, §1, 10-15-97; Ord 39-09, §1, 3-10-09)
**Cross reference(s)--**Fire prevention and protection, ch. 6.

### Sec. 4-138. Construction in fire limits – certain remodeling, repairs prohibited.

(a) No wood frame unprotected building within the fire limits of the City shall be remodeled to the extent of fifty percent (50%) of the fair market value during the life of the building.

(b) No wood frame unprotected building within the fire limits which is damaged to the extent of fifty percent (50%) of the fair market value shall be repaired or rebuilt. The amount or extent of damage shall be determined by the Board of Building Inspection. The decision of the board shall be communicated to the building owner by the Inspections Division. If, within ten (10) days of the notification, the owner does not raze and remove the building condemned, it shall be considered a nuisance and the City shall proceed to have it removed and the cost thereof shall be collected by the Department of Finance in the same manner as the taxes of the City.
(Code 1965, §4.10(2); Ord 76-93, §1, 4-21-93; Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)
**Cross reference(s)--**Fire prevention and protection, ch. 6.

### Sec. 4-139. Same – construction standards generally.

(a) ***Restrictions.***

(1) All buildings located in the fire limits of the City as described in §4-137 shall be constructed as set forth in the International Building Code (IBC) 602.2 – 602.4, as adopted by the

Wisconsin Administrative Code. All buildings of less than two-hour fire-resistive construction shall have ten (10) feet of clearance to the side and rear property lines and any other frame-type building. Pole buildings shall not be permitted in the fire limits.

(2) No permits will be issued for any remodeling of any frame building or part of frame building within the fire limits unless such remodeling will be in conformity with the requirements for new buildings within the fire limits. No frame building within the fire limits shall be raised or removed to any other place within the fire limits, nor shall any frame building be moved into fire limits; nor shall any frame building within such limits which may be damaged to the extent of fifty percent (50%) of the market value thereof be repaired or rebuilt. No such buildings where the damages are less than fifty percent (50%) of the market value shall be so repaired as to be raised higher than the highest point left standing after such damage has occurred or so as to occupy a greater space than before the damage thereto.

(3) No frame building or structure shall be erected within the fire limits except one- (1-) story frame buildings for the use of builders, stands, platforms, booths and tents, erected under temporary permits. Such structures shall be removed as soon as they have ceased to serve the original purpose for which they were permitted.

(b) ***Waiver of requirements.*** The Board of Building Inspection may in its discretion waive strict enforcement of the provisions of this section and may prescribe more liberal conditions for the erection, repair or enlargement of buildings within the fire limits.
(Code 1965, §§15.11, 15.12; Ord 118-96, §1, 12-18-96; Ord 85-97, §1, 10-15-97, Ord 36-99, §1, 6-6-99, Ord 2-05, §1, 1-11-05; Ord 40-09, §1, 3-10-09; Ord 150-11, §1, 6-7-11)
**Cross reference(s)--**Fire prevention and protection, ch. 6.

**Sec. 4-140. Uniform Dwelling Code.**

(a) ***Adoption of State code***. Wisconsin Administrative Code, SPS chapters 320 through 325, Uniform Dwelling Code, as adopted and effective December 1, 1978, and all amendments thereto, is adopted and incorporated in this article by reference.

(b) ***Enforcement.*** The Inspection Supervisor and his delegated representatives are hereby authorized and directed to administer and enforce all of the provisions of the Uniform Dwelling Code.

(c) ***Applicability.*** The Uniform Dwelling Code adopted in this section shall apply to all construction of one- (1-) and two- (2-) family buildings, and shall apply to all such existing buildings, but only to the extent such existing buildings are remodeled, reconstructed or added to.
(Code 1965, §15.06; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-141. Garages and accessory buildings.**

(a) ***Unattached.*** Unattached garages and accessory buildings shall be constructed on concrete slabs as provided in the uniform dwelling code adopted in §4-140; provided, however, that no concrete slab shall be required for unattached storage buildings where the structure does not exceed one hundred (100) square feet in area and the structure is securely anchored. Unattached garages and accessory buildings may be framed with members spaced two (2) feet on center. All other general requirements of the uniform dwelling code shall be complied with.

(b) ***Attached.*** Attached garages, carports and shelters that are connected to a residence shall have footings and foundations to the established frost line. Attached garages with exterior siding shall be framed to meet all general requirements. Floor drains in garages shall not connect to the foundation drain tile or a clear water sump. Attached carports and unheated shelters that are designed to compensate for movement or flexing and meet all other general requirements may be erected or installed on concrete slabs without frost walls and footings, provided that detailed drawings of design and method of construction are submitted with the permit application.
(Code 1965, §15.07)

(c) ***Construction time frame.*** Unattached garages or accessory buildings must be completed within one (1) year from the date that the building permit is issued. Failure to complete the construction of garages and accessory buildings will require a new permit. The permit fee for additional permits will be double the original permit fee.

(d) ***Garage door required.*** All attached and detached garages, excluding carports, must have an operating garage door.
(Ord 10-98, §1, 2-18-98; Ord 174-08, §1, 12-9-08)

**Sec. 4-142. Boarding of vacant buildings.**

(a) ***Vacant Structures***. Owners shall have the responsibility for maintaining all vacant dwelling units, structures, principal buildings and accessory buildings in a locked or closed condition so that they cannot be entered without an unlawful break-in. The Inspections Supervisor may, to assure compliance with this section, order an owner to board a structure.

(b) Owners prior to boarding of a structure under order of the Inspections Supervisor shall apply for a permit and pay a fee of thirty dollars ($30.00).

(c) Boarding of a structure shall be required for all doors and windows on ground level and those doors and windows accessible to grade by stairs or permanently fixed ladders or within ten (10) feet of grade.

(d) Boards shall be a minimum of ½ inch thick exterior grade plywood cut to fit door and window openings, and screws at least 1½ inches in length shall be used to fasten boards to a structure.

(e) All doors boarded at grade level shall be locked and maintained per State of Wisconsin and City of Appleton Building and Fire Codes. The use of padlocks to secure entry doors is strictly prohibited.

(f) Boards shall be painted to match the trim or siding color of the structure.

(g) Screening or alternate methods of boarding may be permitted when approved by the Inspection Supervisor.

(h) The owner of a structure boarded under subd. (a) shall be required, upon notification, to provide entry to the structure to the Inspections Supervisor or Fire Chief at least once every six (6) months, for inspection purposes, or at anytime when the structure has been unlawfully entered.

(i) The owner of a boarded structure shall notify the Inspections Supervisor in writing no later than ten (10) days after the sale of the structure or the unboarding of the property.

(j) If, after a reasonable notice, the owner fails to board the structure, the Inspections Supervisor may request the Department of Public Works, either by City personnel or by contract, to correct the situation and charge the cost thereof upon the tax rolls of the property.
(Ord 71-99, §1, 10-10-99, Ord 62-07, §1, 3-27-07)

**Sec. 4-143. Maintenance generally.**

(a) All commercial structures and buildings, or portions thereof, shall be maintained to comply with the following requirements:

(1) Every foundation, exterior wall and roof and gutter system shall be reasonably weather tight, waterproof and rodent-proof and shall be kept in a good state of maintenance and repair.

(2) Every interior partition wall, floor and ceiling shall be capable of affording privacy, kept in a reasonably good state of repair and maintained so as to permit it to be kept in a clean and sanitary condition.

(3) All rainwater shall be so drained and conveyed from every roof so as not to cause dampness in the walls, ceilings or floors of any habitable room, or any bathroom, or of any toilet room.

(4) Every inside and outside stairway, every porch and every appurtenance thereto shall be constructed in accordance with applicable building codes; and shall be kept in sound condition and a reasonably good state of maintenance and repair.

(5) Every supplied plumbing fixture and water or waste pipe shall be properly installed in accordance with the Wisconsin Plumbing Code and shall be maintained in good, sanitary working condition.

(6) Every chimney and every supplied smoke pipe shall be adequately supported, reasonably clean and maintained in a reasonably good state of repair.

(7) Every toilet room floor surface and bathroom floor surface shall be maintained so as to be impervious to water and so as to permit such floors to be kept in a clean and sanitary condition.

(8) Every supply facility, piece of equipment, or utility which is required under this article shall be so constructed or installed that it will function properly and shall be maintained in reasonably good working condition.

(9) Every parking lot, driveway and sidewalk shall be kept in good state of repair and shall be maintained in conformance with the approved site plan when applicable. Handicap accessible parking stalls shall be provided in accordance with State building code at the time maintenance and repair work is done.

(Ord 17-14, §1, 5-13-14)

**Secs. 4-144 – 4-160. Reserved.**

## DIVISION 2. PERMITS

### Sec. 4-161. Permit fees.

(a) ***Generally***. Before a permit is issued to a contractor, the owner or his agent for work described in this section, a fee shall be paid to the Director of Finance as follows:

(1) ***One- (1-) and two- (2-) family dwellings.*** The amount of the permit fee for one- (1-) and two- (2-) family dwellings shall be on file in the office of the City Clerk.

(2) ***Multifamily dwellings.*** The amount of the permit fee for multi-family apartment dwellings shall be on file in the office of the City Clerk.

(3) ***Offices and mercantile buildings***. The amount of the permit fee for offices and mercantile buildings, including public occupancies such as garages, stores, taverns, theaters, churches, schools, restaurants, and the like, shall be on file in the office of the City Clerk.

(4) ***Factories; warehouses***. The amount of the permit fee for factory and warehouse buildings shall be on file in the office of the City Clerk.

(5) ***Alterations.*** The amount of the permit fee for alterations to all existing buildings and structures, including installation of major equipment not covered under the mechanical code, and re-siding of residential structures and the like, shall be on file in the office of the City Clerk.

(6) ***Demolition.*** The amount of the permit fee for wrecking and razing of buildings and structures shall be on file in the office of the City Clerk.

(7) ***Moving of buildings.*** The amount of the permit fee for moving of buildings and structures shall be on file in the office of the City Clerk.

(8) ***Swimming pools***. The amount of the permit fee for in-ground and aboveground swimming pools shall be on file in the office of the City Clerk.

(9) ***Fences.*** The amount of the permit fee for residential, commercial and industrial fences shall be on file in the office of the City Clerk.

(10) [***Reserved.***]

(b) ***Penalty for commencing work without permit***. The fee for failure to obtain a permit is triple the permit fee when a permit is obtained. Payment of any fee shall not relieve any person of the penalties that may be imposed for violation of this chapter.
(Code 1965, §15.02(1)(a)-(l); Ord 75-91, §1, 8-7-91; Ord 4-93, §1, 1-6-93; Ord 69-97, §1, 10-1-97; Ord 41-09, §1, 3-10-09)

### Sec. 4-162. Miscellaneous fees.

(a) The amount of the one- (1-) and two- (2-) family residential building plan examination fee shall be on file in the office of the City Clerk.

(b) The fees for State Department of Safety and Professional Standards permits (uniform building permit seal) shall be the fees contained in Wisconsin Administrative Code, SPS §302.34, plus a five-dollar ($5.00) handling charge.

(c) A callback inspection charge shall be established at thirty-five dollars ($35.00) per callback for all work requiring inspection under permit requirements.
(Code 1965, §15.02(1)(m)-(o); Ord 69-97, §1, 10-1-97)

### Sec. 4-163. Submission of plans to State Department of Safety and Professional Services.

In accordance with an agreement executed by and between the City and the State Department of Safety and Professional Services, and with W.S.A. §101.12, the Inspection Supervisor may examine essential drawings, calculations and specifications for new projects up to 50,000 cubic feet and remodels up to 100,000 cubic feet. The division will accept the examinations at no cost for projects that are less than 1,000 square feet and with an estimated cost of less than $3,000. The Inspection Supervisor shall collect fees for examination of the plans for deposit in the City treasury. The fee collected by the Inspection Supervisor shall be the same fee that would apply if the examination were made by the department and the fee schedule set forth in Wisconsin Administrative Code, SPS §302.31 is adopted and incorporated as part of this section by reference.

(a) All building plans, essential drawings, calculations and specifications for commercial buildings larger than specified in §4-163 shall be submitted to the State of Wisconsin Department of Safety and Professional Services. Submission to the Department of Safety and Professional Services will include all new commercial buildings, alterations to existing commercial buildings and additions to existing commercial buildings. Building plans for one- (1-) and two- (2-) family dwellings are not required to be submitted to the State of Wisconsin and can be submitted directly to the Inspections Division.

(b) Before a building permit will be issued by the Inspections Division for any commercial project, two (2) copies of the State of Wisconsin approved building plans, essential drawings, calculations and specifications for that project shall be submitted to the Inspections Division along with the completed permit application. The Inspections Division, along with the Appleton Fire Department will have seven (7) business days to complete the project review. When final approval from the Project Review Team is given, only then will the building permit be issued to the building owner or their legal representative.
(Code 1965, §15.03; Ord 32-92, §1, 3-18-92; Ord 107-92, §1, 10-7-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 85-97, §1, 10-15-97, Ord 71-99, §1, 10-10-99; Ord 42-09, §1, 3-10-09; Ord 25-12, §1, 3-7-12; Ord 72-12, §1, 1-1-13)

**Sec. 4-164. Restrictions on permit issuance – location of lot; platting.**

(a) No building permit shall be issued unless the property on which the house is proposed to be built abuts a street that has been dedicated for street purposes.

(b) A scaled site plan shall be submitted with the application for a building permit showing at a minimum all existing and proposed buildings and property lines. In areas where drainage plans have been approved, the site plan shall also show elevations at both property and new building corners, direction of the drainage, location of any primary swales, lot line drainage, plus other sufficient details in order to review conformance to the subdivision drainage plan.

(c) In any new subdivision, prior to the issuance of any building permits, the developer shall submit two (2) copies of the subdivision drainage plan to the Inspections Division, certifying that the grades of primary swales have been adjusted to final grades. An exception is made to allow building permits to be issued for those lots in developments awaiting swale grading due to utility installation after October 1, in any year. Said grading must be completed by the following May 31 and certification received by the Inspection Supervisor by the following June 6.

(d) In areas with approved drainage plans, the Division of Inspections shall not issue further permits to builders or property owners who are in noncompliance with the drainage and grading requirements of the City on any lot.
(Code 1965, §15.04; Ord 98-92, §1, 9-2-92); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-165. Same – requirements for utilities and street improvements.**

No building permit shall be issued for the construction of any residential building until sewer, water, grading and graveling are installed in the streets necessary to service the property for which the permit is required. 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 necessary to service the property for which the permit is requested. Public buildings are exempt from this requirement. No person shall occupy any building until sewer, water, grading and graveling are installed in the streets necessary to service the property, and a certificate of occupancy shall not be issued until such utilities are available to service the property.
(Code 1965, §15.05; Ord 10-91, §1, 2-6-91)

**Secs. 4-166 – 4-180. Reserved.**

## DIVISION 3. UNSAFE BUILDINGS*

### Sec. 4-181. Right of condemnation.

(a) All buildings or structures that are or become unsafe, unsanitary or deficient in adequate exit facilities, which constitute a fire hazard or are otherwise dangerous to human life or the public welfare, or which are detrimental to public health, safety and welfare by reason of illegal or improper use, occupancy or maintenance, shall be deemed unsafe buildings or structures. All unsafe buildings shall be taken down and removed or made safe and secure as the Inspection Supervisor may deem necessary and as provided in this division. A vacant building, unguarded or open at a door or window, shall be deemed a fire hazard and unsafe within the meaning of this section.

(b) State Statute §66.0413 Razing Buildings is adopted and incorporated into this code by reference.
(Code 1965, §15.09(1); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 26-09, §1, 2-10-09)

### Sec. 4-182. Examination and record when building reported as unsafe.

The Inspection Supervisor shall examine every building or structure reported as dangerous, unsafe structurally or constituting a fire hazard, and he shall cause a report to be filed in a docket of unsafe structures and premises stating the use of the building and the nature and estimated amount of damages, if any, caused by collapse or failure.
(Code 1965, §15.09(2); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

### Sec. 4-183. Notice of unsafe conditions.

(a) ***Contents; time limits.***

(1) If an unsafe condition is found in a building or structure, the Inspection Supervisor shall serve on the owner, agent or person in control of the building or structure a written notice describing the building or structure deemed unsafe and specifying the required repairs or improvements to be made to render the building or structure safe and secure, or requiring the unsafe building or structure or portion thereof to be demolished within a stipulated time. Such notice shall require the person thus notified to declare within the specified time to the Inspection Supervisor his acceptance or rejection of the terms of the order.

(2) Where a building or structure has been damaged by fire, the owner has thirty (30) days from the date the Fire Department investigation is completed to begin cleanup work.

(3) Repair work or demolition work on the damaged building or structure shall be started within sixty (60) days of the date the Fire Department investigation is completed.

(b) ***Service by mail or posting.*** An order shall be served on the owner of record of the building that is subject to the order or on the owner's agent if the agent is in charge of the building in the same manner as a summons is served in circuit court. If the owner and the owner's agent cannot be found or if the owner is deceased and an estate has not been opened, the order may be served by posting it on the main entrance of the building and by publishing it as a class 1 notice under ch. 985 before the time limited in the order begins to run. The time limited in the order begins to run from the date of service on the owner or the owner's agent or, if the owner and agent cannot be found, from the date that the order was posted on the building. Such procedure shall be deemed the equivalent of personal service.
(Code 1965, §15.09(3), (5); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 43-09, §1, 33-10-09)
**Cross reference(s)--**Housing standards, §4-231 et seq.; vacation of certain buildings, §6-7; fire prevention and protection, Ch. 6; nuisances, Ch. 12; abandoned property, §12-101 et seq.
**State law reference(s)--**Unsafe, unsanitary, dilapidated buildings, W.S.A. §§66.0413, 823.21 et seq.

### Sec. 4-184. Restoration of building.

A building or structure condemned by the Inspection Supervisor may be restored to safe condition. If the damage or cost of reconstruction or restoration is in excess of fifty percent (50%) of its fair market value, exclusive of foundations, such building shall be made to comply in all respects with the requirements for materials and methods of construction of new buildings.
(Code 1965, §15.09(4); Ord 32-92, §1, 3-18; Ord 174, 93, §1, 10-19-93: Ord 118-96, §1, 12-18-96)

### Sec. 4-185. Failure to comply with order.

Upon refusal or neglect of the person served with an unsafe notice to comply with the requirements of the order to abate the unsafe condition, the City Attorney shall be advised of all the facts and he shall institute the appropriate action to compel compliance.
(Code 1965, §15.09(6))

### Sec. 4-186. Buildings, structures, dwelling unit, equipment which are unsafe or unfit for human habitation.

(a) ***Inspection.*** The Supervisor of Inspections may

inspect any building, structure, dwelling unit or equipment thereon, which is reported or found to be damaged, dangerous, unsafe or unfit for human habitation.

(b) ***Order to discontinue occupancy or use.*** The Supervisor of Inspections may issue an order to the owner of any building, structure, dwelling unit or equipment thereon, or on the person occupying or using any such building, structure, dwelling unit or equipment, to discontinue such occupancy or use if the building, structure, dwelling unit or equipment is, in the judgment of the Inspections Supervisor, in an unsafe condition or unfit for human habitation per Municipal Code §4-235 and §4-236. An order to discontinue occupancy or use shall identify the code violation that causes the building, structure, dwelling unit or equipment to be unsafe or unfit for human habitation. If the building, structure, dwelling unit or equipment can be made safe or fit for human habitation by repairs, the order shall specify a time frame to make the necessary repairs.

(c) When, in the opinion of the Supervisor of Inspections, there is actual and immediate danger of failure or collapse of a building or structure or any part thereof which would endanger life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the building, the Supervisor of Inspections may order and require the occupants to vacate the building or structure forthwith.

(d) ***Closing of unsafe or unfit buildings.*** If the owner or occupant of a building, structure, dwelling unit or equipment thereof, which the Inspections Supervisor finds to be unsafe or unfit for human habitation per Municipal Code sections 4-235 and 4-236, fails or refuses to discontinue the occupancy or use of such building, structure, dwelling unit or equipment within the time prescribed by the Inspections Supervisor, the Inspections Supervisor shall notify the City Attorney and the City Attorney shall be advised of all the facts and he shall institute the appropriate action to compel compliance.

(e) ***Placarding of unfit/unsafe buildings.*** The Supervisor of Inspections shall cause to be posted at each entrance to such building that is deemed unfit or unsafe, a notice reading as follows: "This building is unsafe and its use or occupancy has been prohibited by the Supervisor of Inspections."

(f) Orders and placards shall remain effective until the required repairs or alterations have been made or demolition and removal have been completed. No person may remove a posted order or placard, nor occupy, use or enter a posted or placarded building, structure or dwelling unit, except for the purpose of making the required repairs or alterations, without written permission from the Supervisor of Inspections.
(Code 1965, §15.10(1); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96, Ord 71-99, §1, 10-10-99)

**Sec. 4-187. Emergency repairs.**

(a) When, in the opinion of the Inspection Supervisor, there is actual and immediate danger of collapse or failure of a building or structure or any part thereof which would endanger life, he shall cause the necessary work to be done to render such building or structure or part thereof temporarily safe, whether or not the legal procedure described in this division has been instituted.

(b) When necessary for the public safety, the Inspection Supervisor shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(c) Costs incurred in the performance of emergency work shall be paid from the City treasury on certificate of the Inspection Supervisor, and the City Attorney shall institute appropriate action against the owner of the premises where the unsafe building or structure was located for the recovery of such costs.
(Code 1965, §15.10(2)-(4); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-188. Demolition of buildings.**

(a) ***Permits.*** Permits shall be obtained prior to the demolition of any building or structure in accordance with §4-66(a) and §4-161(a)(6). If the demolition will result in two thousand (2,000) square feet of soil disturbance or where more than two hundred (200) cubic yards of fill (soil or gravel) will be placed, an erosion and sediment control permit shall be obtained in accordance to §24-10(a)(1). No permits shall be issued without the following conditions being met:

(1) The applicant shall file with the City Clerk proof of workers compensation, automobile and general liability insurance equal to or greater than that required by the City and approved by the City's Risk Manager, and it shall be kept in full force and effect for one (1) year after the work has been completed.

(2) The applicant shall file with the Department of Public Works a permit bond in the penal sum of five thousand dollars ($5,000.00) executed by the applicant as principal and a surety company authorized to do business in the State of Wisconsin, running in favor of the City so that in the event the City should suffer any loss or damage by any negligence, malfeasance or misfeasance in the conduct of the work performed under this section shall have the right to institute an action for recovery against the applicant and the surety upon such bond. The bond must further state that the applicant

shall fully comply with all provisions of State law and City ordinances as applicable and that the applicant will save and indemnify the City against any costs, expenses or damages which may in any way accrue against the City due to the work performed under this section, and will keep the City harmless against all liabilities, judgments, costs and expenses as a consequence of the work.

(b) ***Utility disconnections.*** Prior to the issuance of a demolition permit, the owner or agent shall notify all utilities having service connections within the building, including but not limited to: water, electric, gas, sewer and other connections. A permit to demolish or to remove a building shall not be issued until all equipment, such as meters or regulators, have been removed, and service connections are sealed and plugged correctly. No permit to demolish or remove any building shall be issued without written proof of service disconnection.

(c) ***Sewer and water connections.*** The sewer and water connections are required to be sealed before a building is demolished to protect the sewer from any sand, earth, water or other foreign materials that may enter into the sewer and/or water system in accordance with §4-272. The water connection shall be sealed at the property line or at a point determined by the water utility. The sewer connection may also be sealed at the property line if the piping is constructed of materials listed in Table 82.30-3 of the State Plumbing Code. If the sewer connection is any other material it must either be sealed at the main in the street or brought into compliance with this section by using other approved methods.

(d) ***Property to be protected.*** Streets, alleys, and private property shall be properly protected by erecting proper fences and scaffolds. If scaffolds are to be built on streets or alleys, they shall be properly protected with a top cover of planks, guard rails, and toe-boards to prevent debris from falling on sidewalks or streets. The top of the scaffold shall be at least eight feet (8') above the sidewalk or alley.

(e) ***Property to be secured.*** Properties that are to be demolished shall not be left open and unsecured. If doors and windows are removed for any reason, these openings shall be secured with boards in accordance with §4-142. If a demolition permit is obtained, a permit for boarding is not required. If the permit applicant plans to leave a building open overnight, a security plan must be approved by the Inspections Supervisor prior to the issuance of a demolition permit. The security plan shall detail how any open building or demolition site will be secured from trespassers.

(f) ***Unguarded pits a nuisance.*** Open excavations or pits caused by the demolition of the building are declared a public nuisance in accordance with §12-30(12) of the Appleton Municipal Code.

(g) ***Obstruction of streets.*** When razing requires the obstruction of a public street, alley or sidewalk, a street occupancy permit must be obtained from the Department of Public Works before starting work on razing the building.

(h) ***Completion of project.*** Except for commercial properties with approved site plans, when demolition activities are completed, disturbed areas shall be graded and restored to perennial grass vegetation at a slope of no greater than 10:1 (horizontal to vertical), unless approved by the building inspector upon permit issuance. For purposes of this section, site restoration shall consist of the following:

(1) Topsoil capable of supporting a dense cover of perennial grass shall be placed at a minimum thickness of four (4) inches over all disturbed areas.

(2) Till and prepare a fine, but firm seedbed, reasonably free of rocks, foreign matter or soil clods over two (2) inches in size.

(3) Uniformly seed the site in a manner consistent with typical landscaping standards, utilizing grass seed that conforms to the requirements of the Wisconsin Statutes and of the Administrative Code Chapter ATCP 20.01 regarding noxious weed seed content and labeling. Seed application rates shall be consistent with supplier recommendations.

(4) At a minimum, mulch seeded areas with straw or hay that is substantially free of noxious weed seeds or other objectionable matter. Application shall be uniform and at a loose depth of one-half (½) inch to one and one-half (1½) inches. Mulch shall be anchored in place by use of a mulch crimper to impress the mulch into the soil or other approved methods. Where steep slopes dictate, other seed/soil stabilization methods such as erosion control mat may be required.

(5) Re-seed areas as necessary to achieve a uniform dense cover of grass.

(6) Commercial properties with approved site plans must proceed pursuant to those plans as soon as demolition activities are completed.

(Ord 27-09, §1, 2-10-09; Ord 99-16, §1, 12-13-16)

**Secs. 4-189 – 4-205. Reserved.**

## DIVISION 4. MOVING OF BUILDINGS AND STRUCTURES*

### Sec. 4-206. Permit required; application.

(a) No building or other structure shall be moved over the streets of the City unless a permit has been granted by the Common Council, except as provided in §4-211.

(b) Any person wishing to move a building over the streets of the City shall make application to the Director of Public Works on a form provided by the Director of Public Works. Such application shall also be signed by the owner of the property to which the building is to be moved.
(Code 1965, §15.08(1), (2))
**Cross reference(s)-**Street, sidewalks and other public places, ch. 16; traffic and vehicles, ch. 19.

### Sec. 4-207. Issuance of permit; permit fee.

No permit shall be granted by the Common Council for the moving of buildings over the streets of the City without the following conditions being met:

(1) The axle load shall be such that there will be no damage to the road surface as determined by the Director of Public Works.

(2) The building shall be of such length, height and width that, in the opinion of the Municipal Services Committee, it will not interfere with power lines, trees and other structures along the route to be traveled.

(3) No building shall be moved over a bridge in the City unless it can be shown to the satisfaction of the Director of Public Works that such move will not result in undue stress on or physical damage to the bridge.

(4) The applicant shall file with the City Clerk proof of workers compensation, automobile and general liability insurance equal to or greater than that required by the City and approved by the City's Risk Manager, which shall be kept in full force and effect for one (1) year after the building has been moved.

(5) The applicant shall file with the Department of Public Works a permit bond in the penal sum of five thousand dollars ($5,000) executed by the applicant as principal and a surety company authorized to do business in the State of Wisconsin, running in favor of the City so that in the event the City should suffer any loss or damage by any negligence, malfeasance or misfeasance in the conduct of the work of this section shall have the right to institute an action for recovery against the applicant and the surety upon such bond. The bond must further state that the applicant shall fully comply with all provisions of State law and City ordinances and that the applicant will save and indemnify the City against any costs, expenses or damages which may in any way accrue against the City due to the work of this section, and will keep the City harmless against all liabilities, judgments, costs and expenses as a consequence of the work.

(6) The applicant shall pay to the Director of Finance a fee as provided in §4-161(7).

(Code 1965, §15.08(4); Ord 73-89, §1, 6-7-89; Ord 4-93, §1, 1-6-93; Ord 9-97, §1, 2-19-97; Ord 38-12, §1, 5-16-12; Ord 100-16, §1, 12-13-16)

### Sec. 4-208. Approval of relocation in city; old buildings.

(a) No building shall be moved from one location to another location within the City without the conditions provided in this division being met.

(b) The Inspection Supervisor shall issue a building permit for the relocation of the building in compliance with all building and zoning regulations, provided that the permit has been approved by the Municipal Services Committee and the Common Council.

(c) The Inspection Supervisor shall notify the alderperson of the ward of the proposed relocation.

(d) A relocation shall not be made if there is a protest of the relocation duly signed and acknowledged by the owners of twenty percent (20%) or more of the land immediately adjacent to the property extending one hundred (100) feet therefrom or by the owners of twenty percent (20%) or more of the land directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite land, unless so granted by a three-fourths (¾) vote of the Common Council.

(e) No building shall be moved from one location to another location within the City if the building has been in existence more than fifty percent (50%) of its estimated life expectancy as set forth in Boeckh's *Manual of Appraisals Depreciation Table for Buildings.*

(f) No old building shall be moved from outside the corporate limits of the City to within the corporate limits of the City. Newly constructed factory-built homes and parts thereof may be moved from outside the City to within the City in compliance with all other provisions of this division. The permit fee for the move to the first permanent location shall

be as provided in §4-161(7). The Chief of Police may require a police escort for moving factory-built housing and, if required, a fee of twenty dollars ($20.00) per hour per man shall be charged.

(g) No old building shall be moved to a new location within the City unless it fully complies with or is remodeled to fully comply with all minimum requirements of the plumbing, heating and ventilating, building and housing and electrical codes for new construction.
(Code 1965, §15.08(6); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96, Ord 108-04, §1, 8-10-04; Ord 39-12, §1, 5-16-12)

**Sec. 4-209. Route, time limits and safety requirements.**

(a) Every permit issued under this division shall state all conditions to be complied with and designate the route to be taken and the limit of time for removal.

(b) The moving of the building shall be continuous during all hours of the day, and day by day, if the Common Council, Mayor or Director of Public Works so orders, until the moving is completed, to cause the least possible obstruction to streets.

(c) No building shall be allowed to remain overnight on any street crossing or intersection.

(d) Red warning lights shall be placed conspicuously at both ends of the building during the night.

(e) The mover of the building shall report daily to the Fire Department the location of the building on the street.

(f) If a building being moved must remain stationary on a street for any period of time, permission for such shall be obtained from the Mayor and Director of Public Works and the building shall be so placed as to permit easy access to any fire hydrant.
(Code 1965, §15.08(3))

**Sec. 4-210. Supervision of operation; trimming of trees.**

The mover of the building to whom a permit has been granted under this division shall notify the Director of Public Works of the time when moving is to begin. The Director of Public Works may appoint an inspector to be present during the moving operation to supervise such moving. The appointment of an inspector in no way relieves the mover from any liability for damage that may be done during the moving operation. The Director of Public Works may also request the Forestry Division to trim the necessary trees along the route. The costs of the inspector and tree trimmers shall be billed at actual cost to the mover.
(Code 1965, §15.08(5), Ord 40-12, §1, 5-16-12)

**Sec. 4-211. Small buildings; buildings to be moved out of city.**

(a) Smaller buildings of one story in height and not more than fourteen (14) feet wide including cornice may be moved on a truck or trailer equipped with pneumatic tires.

(b) The permit required for moving any building from a location in the city to a location outside the city may be issued by the Engineering Division provided all conditions required for moving buildings shall be met.

(c) In the case of small buildings all conditions shall be met except §4-207(6) and the following shall apply:

(1) A police escort shall be required if a bridge is to be crossed;

(2) The fee shall be five dollars ($5.00) per one hundred (100) square feet of the area of the building.

(Code 1965, §15.08(7); Ord 73-89, §1, 6-7-89)

**Sec. 4-212. Police escort.**

Whenever a permit is issued for the moving of a building, a police escort shall be required and may be required when moving factory-built houses or other small buildings pursuant to §4-211(c). A fee of twenty dollars ($20.00) per hour per man assigned to the escort shall be charged.
(Code 1965, §15.08(8))

**Secs. 4-213 – 4-230. Reserved.**

## ARTICLE IV. HOUSING

### Sec. 4-231. Definitions.

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

***Approved*** means approved by or in accordance with regulations under this code, regulations enforced and interpreted by the Inspection Supervisor or his designee or other regulations as indicated elsewhere in this article.

***Basement*** means a story whose floor line is below grade at any exits and whose ceiling is not more than five (5) feet above grade at any entrance or exit.

***Bath*** means a bathtub or shower.

***Bedroom*** means a habitable room within the dwelling unit which is used or intended to be used primarily for the purpose of sleeping.

***Cellar*** means basement.

***Communal*** means used or shared by or intended to be used or shared by occupants of two (2) or more dwelling units.

***Duplex*** means a structure with two (2) dwelling units.

***Dwelling*** means any building or structure which is wholly or partially used or intended to be used for living or sleeping by human occupants.

***Dwelling unit*** means a suite of habitable rooms, occupied by or intended to be occupied by not more than one (1) family as a residence and forming a single habitable unit with cooking, living, sanitary and sleeping facilities.

***Extermination*** means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; or by poisoning, spraying, fumigating, trapping or any other approved pest extermination methods.

***Family*** means one (1) or more individuals not necessarily related by blood, marriage, adoption, or guardianship, living together under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

***Floor area.*** Floor area of rooms shall be measured by interior dimensions unless otherwise noted.

***Garbage*** means animal and vegetable waste resulting from the handling, preparation, cooking or consumption of food, including spoiled food.

***Habitable living area*** means the sum of the areas of all habitable rooms within a dwelling unit.

***Habitable room*** means a room or enclosed floor area for living, sleeping, cooking or eating purposes, excluding bathrooms, toilet rooms, laundries, pantries, foyers, communicating corridors, closets, storage space, stairways and utility rooms for mechanical equipment for service in the building or other similar spaces not used by persons frequently or during extended periods.

***Hotel, motel or motor hotel*** means any structure containing five (5) or more units wherein sleeping accommodations are offered for pay to transients. It does not include rooming houses.

***Infestation*** means the presence of any insects, rodents or other pests within a dwelling or in the dwelling premises.

***Kitchen*** means a room within a dwelling unit used for cooking or the preparation of meals.

***Living room*** means a habitable room within a dwelling unit which is used or intended to be used primarily for general living purposes.

***Multiple dwelling*** means any structure containing three (3) or more dwelling units or a structure containing one (1) or more dwelling units in combination with a nonresidential use.

***Nondwelling structure*** means any structure except a dwelling.

***Nursing home*** means a dwelling or part thereof within which shelter, meals and nursing care are supplied to three (3) or more patients who are not members of the family of the operator or supervisor of the home.

***Occupant*** means any person over six (6) months of age, including an owner or operator, living, sleeping or cooking in or having actual possession of a dwelling unit.

***Operator*** means any person who has charge, care, custody or control of the building or part thereof in which dwelling units are offered for rent or occupancy.

***Owner*** means any person who alone or jointly or severally with others:

(1) Has legal title or equitable title of any dwelling unit; or

(2) Has charge, care or control of any dwelling or dwelling unit as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.

***Plumbing*** includes all gas pipes, waste pipes, water pipes, water closets, sinks, lavatories, bathtubs, catch basins, drains, vents and any other provided fixtures together with the connections to the water, sewer or gas lines.

***Premises*** means any platted lot or part thereof or parcel of land or plot of land either occupied or unoccupied by any dwelling or non-dwelling structure.

***Roomer*** means an occupant, transient or permanent, of a dwelling unit, who is not a member of the family occupying the dwelling unit.

***Rooming house*** means any dwelling or that part of any dwelling containing one (1) or more rooms in which space is let by the owner or operator to more than two (2) roomers.

***Second-class dwelling*** means any multiple dwelling which contains three (3) or more second-class dwelling units, with second-class dwelling units being defined as dwelling units without the exclusive use of toilet facilities.

***Temporary housing*** means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utility system on the same premises.

***Toilet*** means a water closet with a bowl and trap which is of such shape and form and which holds a sufficient quantity of water so that no waste will collect on the surface of the bowl and which is equipped with flushing rims which permit the bowl to be properly flushed and scoured when water is discharged through flushing rims.

(b) Whenever the words “dwelling”, “dwelling unit”, “rooming house”, “rooming unit”, “nursing home”, “nursing unit”, “hotel”, “hotel unit”, “motel”, “motel unit”, “motor hotel” or “motor hotel unit”, or “premises” are used in this article, they shall be construed as though they were followed by the words “or any part thereof”.

(Code 1965, §15.52; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 86-97, §1, 10-15-97; Ord 18-14, §1, 5-13-14)

**Cross reference(s)--**Definitions and rules of construction generally, §1-2; Unsafe buildings, §4-181 et seq.; health and sanitation, Ch. 7; fair housing regulations, §8-26 et seq.; nuisances, Ch. 12.

**Sec. 4-232. Purpose of article; declaration of nuisance.**

The purpose of this article shall be to preserve and

protect the public interests of the City and the dignity of its citizens, regardless of race, color, or religious beliefs, by setting requirements for minimum housing standards, in order to ensure health, comfort and absence of discrimination. These standards shall provide minimum requirements for living space, ventilation, sanitary facilities, illumination, heating, population densities and maintenance. No person shall occupy as owner-occupant or let or offer to let for occupancy to another person any dwelling unit which shall fail to meet such requirements. Failure to provide minimum requirements shall constitute a public nuisance.
(Code 1965, §15.50)

**Sec. 4-233. Interpretation of article.**

Nothing in this article shall be construed or interpreted to in any way impair or limit the authority of the City to define or declare nuisances or of the Inspection Supervisor or the Health Department to cause the removal or abatement of nuisances, summary proceedings or other appropriate proceedings.
(Code 1965, §15.60; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-234. Applicability of article.**

Every dwelling or dwelling unit used, designed or intended to be used for human habitation shall comply with the provisions of this article.
(Code 1965, §15.51)

**Sec. 4-235. Buildings unfit for human habitation.**

(a) Any of the following dwellings or dwelling units shall be unfit for human habitation:

(1) One which is so damaged, decayed, dilapidated, unsanitary, difficult to heat, unsafe or vermin-infested that it creates a hazard to the health or welfare of the occupants and the public;

(2) One which lacks sufficient illumination, ventilation or sanitary facilities adequate to protect the health or welfare of the occupant or the public; or

(3) One which because of its general condition or location is unsanitary or otherwise dangerous to the health or welfare of the occupants and the public.

Any such building shall be subject to the provisions of §4-136 and §4-140 adopting the state building code.
(Code 1965, §15.59, Ord 71-99, §1, 10-10-99)

**Sec. 4-236. Maintenance generally.**

All residential structures and buildings, or portions thereof, shall be maintained to comply with the following requirements:

(1) Every foundation, exterior wall and roof and gutter system shall be reasonably weathertight, waterproof and rodent-proof and shall be kept in a good state of maintenance and repair.

(2) Every interior partition wall, floor and ceiling shall be capable of affording privacy, kept in a reasonably good state of repair and maintained so as to permit it to be kept in a clean and sanitary condition.

(3) All rainwater shall be so drained and conveyed from every roof so as not to cause dampness in the walls, ceilings or floors of any habitable room, or any bathroom, or of any toilet room.

(4) Exterior doors, windows or hatchways for buildings or structures, shall be provided with devices designed to provide security for the occupants and property within and kept reasonably weathertight and rodent proof and shall be kept in reasonably good state of maintenance and repair. Screens shall be supplied to allow covering of at least one-third (1/3) of the basement window area, except where other means of adequately ventilating such rooms are available and operating. Screens shall have a wire mesh of not less than no. 16.

(5) All exterior surfaces shall be protected from the elements and against decay and deterioration by paint or by other approved protective coating, applied in a workmanlike fashion.

(6) Every inside and outside stairway, every porch and every appurtenance thereto shall be so constructed as to be reasonably safe to use and capable of supporting such a load as normal use may cause to be placed thereon; and shall be kept in sound condition and a reasonably good state of maintenance and repair.

(7) Every supplied plumbing fixture and water or waste pipe shall be properly installed and maintained in good, sanitary working condition.

(8) Every chimney and every supplied smoke pipe shall be adequately supported, reasonably clean and maintained in a reasonably good state of repair.

(9) Every toilet room floor surface and bathroom floor surface shall be maintained so as to be reasonably impervious to water and so as to permit such floors to be kept in a clean and sanitary condition.

(10) Every supply facility, piece of equipment, or utility which is required under this article shall be so constructed or installed that it will function properly and shall be maintained in reasonably good working condition.

(11) No owner or operator shall cause any service facility, equipment or utility which is required to be supplied under provisions of this article to be re-moved from or shut off from or disconnected for any occupied dwelling or dwelling unit let or occupied by him except for such temporary interruptions as may be necessary while actual repairs, replacement or alterations are in process of being made.

(12) Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for the extermination of insects, rodents or pests on the premises. Wherever infestation exists in any two (2) or more of the dwellings, or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination thereof shall be the responsibility of the owner.

(13) Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining in a reasonably clean, sanitary condition all communal shared or public areas of dwellings or premises thereof which are used or shared by the occupants of two (2) or more dwelling units.

(14) No owner shall rent for occupancy or allow any person to occupy any vacant dwelling unit unless it is reasonably clean, sanitary and complies with all provisions of this chapter and all rules and regulations adopted pursuant thereto.

(15) All structures in the City serviced by an elevator shall have Certificates of Inspection and license filed with the Inspection Supervisor quarterly. Failure on the part of the owner or operator to comply with this subsection shall be sufficient evidence to designate such structure as unfit for human habitation.

(16) For all single family, two family and multi family dwellings, no more than two (2) layers of shingles, or other similar roofing materials, may be installed onto a roof.

(b) A written contract assigning any or all of the responsibilities provided in this section to the occupant shall be deemed sufficient to place the responsibilities of this section upon the occupant.
(Code 1965, §15.55; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96, Ord 63-07, §1, 3-27-07; Ord 19-14, §1, 5-13-14)

**Sec. 4-237. Responsibilities of occupant.**

(a) Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies or controls.

(b) Every occupant of a dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in rubbish containers required by this code.

(c) Every occupant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste that might provide food for rodents in a clean and sanitary manner by placing it in a garbage disposal facility or garbage storage container required by this code.

(d) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination in the dwelling unit occupied by him whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a reasonably ratproof or reasonably insectproof condition, extermination shall be the responsibility of the owner.

(e) Every occupant of a dwelling unit shall keep all supplied plumbing fixtures in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(f) Every plumbing fixture furnished by an occupant shall be properly installed and shall be properly maintained in a reasonably good working condition and clean and sanitary state and free from leaks and obstructions.

(g) Every occupant of a dwelling unit shall be responsible for the exercise of reasonable care, proper use and proper operation of supplied heating facilities.

(h) Every space heater furnished by the occupant shall be properly installed, shall be maintained in reasonably good working condition and shall comply with all of the

requirements of Article VII of this chapter, the City heating and ventilating code.
(Code 1965, §15.57)

**Sec. 4-238. Sanitary facilities; access; entrances and exits.**

No person shall occupy as owner-occupant or let or offer to let for occupancy any dwelling or dwelling unit for the purpose of living, sleeping, cooking or eating of meals therein which does not comply with the following requirements:

(1) Every dwelling unit shall contain an approved kitchen sink.

(2) Every dwelling unit shall contain a bathroom.

(3) A bathroom shall contain a bathtub or shower, a toilet and a lavatory installed in an approved manner and maintained in working order. No bathroom shall contain less than ten (10) square feet per plumbing fixture.

(4) Every dwelling unit shall have water heating facilities which are properly installed and maintained in reasonably good working condition and are properly connected with hot water lines to the kitchen sink, lavatory and bathtub and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every bath at a temperature of not less than one hundred (100) degrees Fahrenheit. Such water facilities shall be capable of meeting the requirements of this subsection when the heating facilities of the dwelling or dwelling unit required under the provisions of §4-239 are not in operation.

(5) Every kitchen sink, toilet, lavatory, basin and bath shall be in good working condition and properly connected to an approved water and sewer system.

(6) Garbage and refuse containers shall be provided for every dwelling and dwelling unit. Such containers shall meet the requirements of §15-28 et seq.

(7) Access to areas within the dwelling unit shall be as follows:

a. Access to all areas of a dwelling unit included in the computation of habitable area of the dwelling unit shall be available from all the other habitable areas of the dwelling unit without passing through any portion of any other dwelling unit or communicating corridor common to more than one (1) dwelling unit.

b. Access to all habitable areas of a dwelling unit included in the computation of the habitable area of the dwelling unit on a floor or level other than that of the main living area shall be via an interior stairway with fixed risers. No stairway shall be located in a closet.

(8) Every stairway, entrance and exit of every dwelling and dwelling unit shall comply with SPS 321.03 of the Uniform Dwelling Code and the following requirements:

a. Stairways, entrances and exits shall be kept in a reasonably good state of repair.

b. Access and egress shall be possible from all entrances and exits of all dwellings and dwelling units at all times in a manner approved by the City Fire Department.

(Code 1965, §15.53; Ord 131-10, §1, 9-21-10; Ord 25-12, §1, 3-7-12)
**Cross reference(s)--**Health and sanitation, ch. 7; public nuisances generally, §12-26 et seq.; weeds and wild growth, §12-56 et seq.

**Sec. 4-239. Lighting, ventilation and heating.**

All residential dwellings, or portion thereof, shall be maintained to comply with the following requirements:

(1) Every public hall and public stairway of every dwelling containing four (4) or more dwelling units shall be adequately lighted by means of properly located electric light fixtures at all times, provided that such electrical lighting may be omitted from sunrise to sunset where there are windows or skylights opening directly to the outside and where the total window or skylight area is at least one-tenth of the combined horizontal area of the hall and stairway, and if the skylights provide adequate natural light to all parts of each public stairway. Every public hall and stairway in dwellings containing two (2) or three (3) dwelling units shall be supplied with convenient light switches controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting. Adequate bulbs shall be provided in every public hall and on every public stairway so that a minimum of one (1) foot candle of light is delivered to all parts of the public hall or stairway. All receptacles, luminaires and electrical equipment in multi-family buildings shall be installed and maintained in good working condition and shall be

connected with the source of electric power in conformance to Article VI of this chapter, the City electrical code.

(2) Every kitchen and habitable room within every dwelling or dwelling unit shall contain at least two (2) separate and remote floor or wall type electric convenience outlets or one (1) such convenience outlet and one (1) supplied ceiling or wall type electric light fixture. Every toilet room, bathroom, furnace room, laundry room, stairs and hall shall contain at least one (1) supplied ceiling type or wall type electric light fixture. All receptacles, luminaires and electrical equipment in a dwelling or dwelling unit shall be installed and maintained in good working condition and shall be connected with the source of electric power in conformance to Article VI of this chapter, the City electrical code.

(3) At least one (1) window in each habitable room shall be supplied with a screen covering at least thirty-three and one-third percent (33⅓%) of the window area; provided that such screens shall not be required in rooms deemed by the Health Officer to be located sufficiently high in upper stories of dwellings as to be free of mosquitoes, flies and other flying insects. Such screens shall have a wire mesh not less than no. 16 or, in lieu thereof, mechanical ventilation.

(4) Every habitable room, kitchen, bathroom and toilet room shall have windows with a total glass area equal to at least eight percent (8%) of the room's floor area. Such windows shall open onto a street, alley, or yard court or be open to the sky. Windows shall be so constructed that at least one-half (½) may be fully opened and securely closed. Approved mechanical ventilation may be substituted.

(5) Each dwelling unit shall have heating facilities supplied. The facilities shall be properly installed, be maintained in reasonably good working condition, and be capable of adequately heating all habitable rooms, bathrooms and toilet rooms contained in the dwelling unit where intended for use by the occupants thereof to a temperature of at least seventy degrees (70°) Fahrenheit or in accordance with the design standards established in the Wisconsin Uniform Dwelling Code, SPS 322.07. Every supplied central heating system shall comply with the following requirements:

a. The central heating unit shall be in reasonably good operating condition.

b. Every heat duct, steam pipe and hot water pipe shall be free of leaks and shall function so that an adequate amount of heat is delivered where intended.

c. Every seal between the sections of the hot air furnace shall be tight so noxious gases shall not escape into the duct. Every space heater shall comply with Article VII of this chapter, the City heating and ventilating code.

(6) Every owner or operator of any dwelling who rents, leases or lets for human habitation any dwelling unit contained within such dwelling on terms, either expressed or implied, to supply or furnish heat to the occupants thereof, shall maintain therein a minimum temperature of seventy (70) degrees Fahrenheit or in accordance with the design standards established in the Wisconsin Uniform Dwelling Code, SPS 322.40. Whenever a dwelling is heated by means of a furnace, boiler or other heating apparatus under the control of the owner or operator of the dwelling, such owner or operator, in the absence of a written contract or agreement to the contrary, shall be deemed to have contracted, undertaken or bound himself to furnish heat in accordance with provisions of this subsection to every dwelling unit which contains radiators, furnace heat duct outlets, or other heating apparatus outlets.

(Code 1965, §15.54; Ord 2-06, §1, 1-10-06; Ord 71-08, §1, 4-8-08, Ord 149-11, §1, 6-7-11; Ord 20-14, §1, 5-13-14)

**Sec. 4-240. Occupancy; arrangement and size of rooms.**

No person shall occupy as owner-occupant or let or offer to let for occupancy any dwelling or dwelling unit for the purpose of living therein which does not comply with the following requirements:

(1) No dwelling unit shall be occupied by more than one (1) family, including two (2) occupants who are not related to the family.

(2) At least one-half (½) of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet, and the floor area of that part of any room where the ceiling height is less than seven (7) feet, shall be considered as part of the floor area in computing the total area of the room for the purpose of determining the maximum permissible occupancy thereof or habitable area.

(3) Every dwelling unit shall contain at least one hundred fifty (150) square feet of floor area for the first occupant thereof and at least one hundred (100) additional square feet of floor space for every additional occupant.

(4) No dwelling or dwelling unit containing two (2) or more sleeping rooms shall have such room arrangement that access to a bathroom or toilet room intended for use by occupants of more than one (1) sleeping room can be had only by going through another sleeping room; nor shall such room arrangements exist that access to a sleeping room can be had only by going through another sleeping room or bathroom or toilet room.

(5) Every room occupied for sleeping purposes by one (1) occupant shall contain at least sixty (60) square feet of floor space and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least forty (40) square feet of floor space for each occupant thereof.

(6) No space in a cellar or basement may be used for sleeping unless the basement has two (2) legal exits in accordance with SPS 321.03(5) through SPS 321.03(7) and natural light and ventilation for sleeping rooms in accordance with §4-239 of this section.

(Ord 26-12, §1, 3-21-12)

(7) Every occupant of every dwelling unit shall have unrestricted access to a toilet and to a kitchen sink or lavatory basin located within that dwelling unit.

(Code 1965, §15.56)

**Sec. 4-241. Non-dwelling structures, fences and drainage.**

(a) No owner shall permit any non-dwelling structure or fence to rest on any premises which does not comply with the following requirements:

(1) Every foundation, exterior wall, roof, window, exterior door or basement hatchway, and every other entranceway of every non-dwelling structure, shall be so maintained as to prevent the structure from becoming a harborage for rats, and shall be kept in a reasonably good state of maintenance and repair.

(2) All exterior surfaces of non-dwelling structures shall be properly protected from the elements and against decay and decomposition by paint or other approved protective coating applied in a workmanlike manner.

(3) Every fence shall be kept in a good state of maintenance and repair and shall be securely mounted in the ground to resist lateral wind forces or shall be removed.

(b) Every premise shall be graded and maintained so that no stagnant water shall accumulate or stand on the premises or within any building or structure located on the premises.

(c) For all non-dwelling structures, no more than two (2) layers of shingles, or other similar roofing materials, may be installed onto a roof.

(Code 1965, §15.58, Ord 64-07, §1, 3-27-07)

**Secs. 4-242 – 4-260. Reserved.**

## ARTICLE V. PLUMBING*

## DIVISION 1. GENERALLY

### Sec. 4-261. Definitions.

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

***Plumbing*** means:

(1) All piping, fixtures, appliances and appurtenances in connection with the water supply and drainage systems within a building and to a point from three (3) to five (5) feet outside of the building.

(2) The construction and connection of any drain or waste pipe carrying domestic sewage from a point within three (3) feet outside of the foundation walls of any building with the service lateral at the curb or other disposal terminal, including private domestic sewage treatment and disposal systems and the alteration of any such system, drain or waste pipe, except minor repairs to faucets, valves, pipes, appliances and removing of stoppages.

(3) The water service piping from a point within three (3) to five (5) feet outside of the foundation walls of any building to the mains in the street, alley or other terminal and the connecting of domestic hot water storage tanks, water softeners and water heaters with the water supply system.

(4) The water pressure system, other than municipal systems as provided in W.S.A. chapter 144.

(5) A plumbing and drainage system so designed and vent piping so installed as to keep the air within the system in free circulation and movement and to prevent with a margin of safety unequal air pressures of such force as might blow, siphon or affect trap seals or retard the discharge from plumbing fixtures or permit sewer air to escape.

***Sewer service lateral*** means that part of the drainage system extending from the property line to the connection with the main sewer.
(Code 1965, §16.02);
**Cross reference(s)--**Definitions and rules of construction

generally, §1-2, Utilities, ch. 20.
**State law reference(s)**--Plumbing, W.S.A. §145.01 et seq.; state licensing of plumbers, W.S.A. §145.04(2).

**Sec. 4-262. State plumbing code adopted.**

The Wisconsin State Plumbing Code adopted by the State Board of Health, Wisconsin Administrative Code SPS chapters 382, 383 and 384, and W.S.A. chapter 145, are hereby adopted by reference and made a part of this article. The provisions thereof and of this article shall govern all plumbing, private sewage disposal and drainage work and no plumbing, private sewage disposal and drainage work shall be done except in accordance with the adopted codes and this article.
(Code 1965, §16.01; Ord 85-97, §1, 10-15-97)

**Sec. 4-263. Inspection of new work.**

The Inspection Supervisor shall be notified for inspection of work regulated under this article in accordance with requirements of Article II of this chapter and of the State Plumbing Code. Notification shall include the owner's name, correct address of the property and name of the master plumber. When work is approved, a tag indicating such approval will be placed upon the work in the basement and on each floor level where plumbing is installed. No work shall be enclosed on any floor level where such tag is not in place. Such inspection and approval shall not in any case constitute a guarantee against imperfection by either the City or the Inspection Supervisor.
(Code 1965, §16.11; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-264. Inspection of rental properties, relocated buildings.**

(a) All rentable properties, upon becoming vacant, may be inspected by the Inspection Supervisor and their sanitary condition determined. If the plumbing or any work covered by this article is in an unsanitary condition or a menace to health or safety, the Director shall report to the Health Officer and the premises shall be repaired and put in a sanitary condition before a new occupant takes possession.

(b) The plumbing in buildings moved from one lot or location to another shall be inspected by the Inspection Supervisor and, when found necessary, tested in a manner satisfactory to the Director at the expense of the owner. If plumbing is found unsafe or unsanitary, the plumbing shall be repaired or remodeled and made to reasonably comply with this article.
(Code 1965, §16.08; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, § 1, 12-18-96)

**Sec. 4-265. Permit required for plumbing work in public right-of-way.**

(a) No person shall engage in or work at plumbing in the public right-of-way without the following conditions first being met:

(1) The applicant shall obtain a permit from the Department of Public Works.

(2) The applicant shall file with the City Clerk proof of workers compensation, automobile and general liability insurance equal to or greater than that required by the City and approved by the City's Risk Manager, and it shall be kept in full force and effect for one (1) year after the work has been completed.

(3) The applicant shall file with the Department of Public Works a permit bond in the penal sum of five thousand dollars ($5,000.00) executed by the applicant as principal and a surety company authorized to do business in the State of Wisconsin, running in favor of the City so that in the event the City should suffer any loss or damage by any negligence, malfeasance or misfeasance in the conduct of the work performed under this section shall have the right to institute an action for recovery against the applicant and the surety upon such bond. The bond must further state that the applicant shall fully comply with all provisions of State law and City ordinances as applicable and that the applicant will save and indemnify the City against any costs, expenses or damages which may in any way accrue against the City due to the work performed under this section, and will keep the City harmless against all liabilities, judgments, costs and expenses as a consequence of the work.

(Code 1965, §16.06; Ord 32-92, §1, 3-18-92; Ord 174-93, §1 10-19-93; Ord 53-94, §1, 4-20-94; Ord 118-96, §1, 12-18-96; Ord 101-16, §1, 12-13-16)

**Sec. 4-266. Correction of unsanitary installations.**

When directed by the Health Officer or upon written and signed complaint of any person to the Health Officer that work covered by this article is contrary to the ordinances of the city or is a menace to health, the Inspections Supervisor shall investigate the cause for complaint on the premises. He shall report his findings in writing to the Health Officer, suggesting such changes and corrections as are necessary to put the premises in proper sanitary condition. The Director may also make such report at his own discretion or upon written and signed complaint made to him. The Health Officer thereupon shall direct such changes and corrections to

be made as he deems necessary, and fix a time for having the changes and corrections done.
(Code 1965, §16.07; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-267. Supervision of sewer and water services.**

All sewer service laterals and water service pipes, except that portion of the water service lateral installed or repaired by the City Water Utility from the water main to the private property line, shall be under the supervision of the Inspection Supervisor, and no service pipe shall be laid and no opening into or connection with a sewer service lateral, public sewer or water main shall be made, including the relaying, replacing or repairing of the lateral, sewer or water main, except under his direction.
(Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)
**Cross reference(s)--**Water utility, §20-31 et seq.; sewers and waste water disposal, §20-66 et seq.

**Sec. 4-268. Street openings.**

(a) ***Requirements.*** Openings in any street, alley or public place shall be governed by Chapter 16 and by any specifications or policies on street openings adopted by the Common Council.

(b) Any person receiving a permit to connect to a storm sewer shall notify the Inspections Division whenever the work is ready for inspection. All work shall be left uncovered until examined and approved by the Department.
(Code 1965, §16.04; Ord 185-04, §1, 1-1-05)

**Sec. 4-269. Connections to public sewer.**

(a) ***Record of sewers.*** The Director of Public Works shall keep a record in a book card file or plat, for the purpose of showing the size and location of public sewers and the position of the branches, junctions, laterals and appurtenances.

(b) ***Location of branches; new connections.*** Information concerning the location of wye branches in the public sewer or of sewer service laterals shall be furnished by the City Engineer. All reasonable care will be taken to ensure the correctness of such information, but such correctness will not be guaranteed. When, in accordance with the measurement furnished, the junction is not found in the public sewer within a distance of three (3) feet from the flow side of the measurement, permission shall be given by the Inspection Supervisor to the plumber applying therefore to make a new connection. All such connections shall be made in a manner directed by the Inspection Supervisor. No connection with any sewer or any part thereof shall be covered without permission of the Inspection Supervisor, but such inspection and approval shall not in any case constitute a guarantee against imperfection by either the City or the Director. The permit shall be at all times upon the work and exhibited to any police or other officer of the City.

(c) ***Record of connections.*** The Inspection Supervisor shall keep a record in a book or card file of all sewer connections, showing the location of the lot, the name of the owner, the name of the installer, and the location of the connection.

(d) ***Minimum depth.*** A sewer service lateral or building or house sewer shall, where the depth of the main sewer permits, be installed at a minimum depth in residence districts of ten (10) feet below the established sidewalk grade and in commercial or industrial districts at a minimum depth of twelve (12) feet below the established sidewalk grade. Measurements shall be from the top of the sidewalk to the invert or flow line of the sewer. The grade of a sidewalk, where established, may be obtained in the Office of the City Engineer on request.
(Code 1965, §16.05; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-270. Connection to public sewers and water mains required.**

(a) Whenever public sewers and water mains are laid along and within any public street, alley or place in the City and ready for use, the Inspection Supervisor shall notify in writing all owners or their agents and occupants of all houses, tenements and other buildings used for human habitation situated on lots or parcels of land abutting upon such street, alley or place which is accessible to such sewer and water main, to connect therewith and to connect all bathtubs, water closets, lavatories, sinks and urinals upon their respective lots or parcels of land with the sewer in a sanitary manner in accordance with the state plumbing code within thirty (30) days after service of such a notice. In a district zoned commercial, light manufacturing or heavy industrial all buildings other than those used for residential purposes shall be connected to storm sewers, where available, upon order of the Inspection Supervisor.

(b) Whenever public mini-storm sewers or storm laterals are laid along and within any public street, alley or place in the city and ready for use, property owners shall, upon notice from the City, connect to the facility provided to their particular property. All connections shall be in a manner in accordance with the State Plumbing Code. Failure of the property owner to connect within the time period specified in said notice shall result in said connection being made by the City of Appleton and all charges being assessed against the property as a special charge.

(c) If any such owner, agent or occupant shall fail to comply with such notice, the Inspection Supervisor or the Finance Committee, shall cause such connections to be made

and the cost thereof assessed as a special tax against the lots or parcels of land and the amount thereof shall be levied and collected in the same manner as other taxes, pursuant to W.S.A. §144.06.

(d) After connection to a water main and public sewer, no septic system shall be constructed or maintained upon any such lot or parcel and shall be abated upon thirty (30) days written notice for such abatement by the Inspection Supervisor. If not so abated, the Inspection Supervisor shall cause the same to be done and the cost thereof assessed as a special tax against the property and the amount shall be levied and collected in the same manner as other taxes, pursuant to W.S.A. §144.06. The abatement should be conducted pursuant to, Wisconsin Administrative Code SPS 383.03(2).

(e) The Finance Committee may extend the time for connection hereunder or may grant temporary relief where strict enforcement of this section would work as unnecessary hardship without corresponding public or private benefit.
(Code 1965, §7.04, § 7.04(1)-(4); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 15-97, §1, 3-5-97; Ord 85-97, §1, 10-15-97; Ord 25-12, §1, 3-7-12; Ord 14-13, §1, 7-8-13)

**Sec. 4-271. Discharge of drains and sewers.**

(a) ***Certain discharges prohibited***. No person shall discharge domestic sewage, industrial wastes or septic tank effluent onto the surface of the ground, into any drainage ditch, into any river or stream or into any storm sewer or drain, or permit such materials to be so discharged.

(b) ***Discharges to storm sewers***. Roof leaders, surface drains, groundwater drains, foundation footing drains and other clear water drains shall be connected wherever possible with a storm sewer, but they shall not be connected to a building sewer which discharges into a sanitary sewer or private sewage treatment plant. Air conditioning and clear water drains not described in this subsection shall also discharge to storm drains or sewers, unless special permission is obtained from the Inspection Supervisor in cases where an unnecessary hardship would result and where the spirit of this subsection would be observed. If stormwater or clear water is being discharged into a sanitary sewer the Inspection Supervisor shall give the offending person fifteen (15) days notice to disconnect. Failure to disconnect after such notice shall authorize the Director to cause disconnection and assessment of the costs of such disconnection against the property involved. The Director may, in the alternative, institute action for violation of this subsection.

(c) ***Discharge to public streets.*** No person shall discharge any clear water directly into a public street or alley from November 1 to March 31, inclusive. No person shall discharge any clear water directly into a public street or alley from April 1 to October 31, inclusive, without first obtaining permission from the Public Works Director or an authorized representative.

(d) ***Discharge onto sidewalks.*** No person shall permit the regular discharge of water directly onto any sidewalk or other public area. Such discharge shall constitute a nuisance.

(e) ***Other discharges***. Where a storm sewer is not available or suitable, as determined by the City of Appleton Engineering Department, clear water shall be discharged onto the ground surface at least four (4) feet from the foundation of the building (this shall include discharge from downspouts). Such discharge shall not be directed so as to flow on adjacent property nor shall the discharge be allowed to accumulate and create ponds of standing water or other public nuisance. Nothing contained in this subsection shall act to relieve a person from complying with the other provisions of this section.
(Code 1965, §16.09; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96, Ord 186-04, §1, 1-1-05)

**Sec. 4-272. Sealing of unused sewer and water services.**

(a) All sewer and water laterals or building sewers and water services installed and not immediately used shall be securely sealed so as to be watertight. This shall be done by the use of proper fittings and materials manufactured for that purpose and in a manner approved by the Inspection Division.

(b) Before any building connected to city sanitary sewer or water mains is razed or moved to another location, a permit shall be obtained by a person licensed by the State to perform such work from the Inspection Division to disconnect and seal all sanitary sewer and water services serving the premises. Sealing of the sewer and water laterals shall comply with Sec. 4-188. The water service shall be disconnected and sealed at a location point determined by the Water Utility. The disconnections and sealing thereof shall be approved by the Inspection Division before the work is covered.

(c) All water wells which are temporarily or permanently abandoned shall be sealed by a Wisconsin registered well constructor or pump installer after first obtaining a permit from the Inspection Division. The well shall be sealed and a report filed with the State Board of Health in conformance with the State Well Construction and Pump Installation Code.
(Code 1965, §16.12; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 102-16, §1, 12-13-16)

**Sec. 4-273. Building sewers and building drains.**

(a) Building drains and subdrains under twelve (12) inches inside diameter shall be constructed of asphalt-coated cast iron, or copper, except that the Inspection Supervisor may grant permission for the use of other materials for

specific reasons upon written request. Written request shall be made to the Inspection Supervisor for approval of materials to be used for building drains and subdrains and for wastes and vents where acid and chemical wastes are to be conveyed.

(b) All building sanitary sewers shall be constructed of cast iron, SDR 35 or schedule 40 PVC or ABS pipe. No new building or reconstructed building shall be connected to a sanitary sewer lateral unless the lateral is constructed of material complying with this section and the State of Wisconsin Plumbing Code.

(c) Every soil or waste stack shall be provided with a cleanout. This cleanout shall be twenty-eight (28) to sixty (60) inches above the basement or lowest floor.

(d) All sewer service laterals and building sewers shall be bedded in clear stone to the centerline of the pipe. Bedding material shall be washed gravel with the sand removed, or crushed and screened stone with general fines removed. The size of the bedding stone shall be such that one hundred percent (100%) shall pass a one-half (½) inch sieve.

(e) Underground building drains shall be laid on original or firm ground or thoroughly compacted material. Voids between such firm foundation and the bottom of the pipe, along its entire length, shall be filled with bedding stone as specified for building sewers.

(f) An approved backwater valve shall be installed in the sanitary sewer lateral of every new building and shall be accessible to the property owner for service or replacement except as provided below. The required backwater valve shall not be installed in the public right-of-way.

***Exception.*** A property owner may apply in writing to the plumbing inspector for an exception to the provision of (f). The application must include evidence of the elevation of both the lowest floor level served by sanitary sewer and the nearest downstream manhole to which the sanitary building drain is or will be connected. The plumbing inspector may approve the exception if the elevation of the lowest floor level served by the sanitary sewer is at least one (1) foot higher than the elevation of the nearest manhole to which the sanitary building drain is or will be connected.
(Code 1965, §16.13; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96, Ord 36-02, §1, 3-25-02)

**Sec. 4-274. Waste pipes and vents.**

(a) Garage drains shall not be connected to foundation footing drains nor to a clear water sump.

(b) All vent terminals shall extend at least eight (8) inches above the roof at the centerline of the pipe, but not more than twelve (12) inches above the roof. The joint where a vent terminal passes through the roof shall be made watertight by the use of copper or lead flashings. The top of the flashing shall extend over the top of the vent and turn down into the vent.

(c) Where the only vent serving a fixture is a wet vent, the unit discharge into such wet vent shall be limited to one (1) fixture unit for a one-and-one-half (1½) inch vent or two (2) fixture units for a two-inch vent pipe.

(d) Wherever possible, all changes in direction from vertical to horizontal on any vent shall be made above the overflow rim of the fixture. Where a vent is connected to a horizontal soil or waste pipe and is not a wet vent, such vent shall, where impossible to rise vertically, rise at not less than twenty-two and one-half (22½) degrees until the bottom of the horizontal vent is above the horizontal soil or waste pipe which it serves. The horizontal vent shall have a slope of not less than one-fourth (¼) inch per foot, shall be installed with drainage fittings, and shall be provided with a cleanout twenty-eight (28) to thirty (30) inches above the floor.
(Code 1965, §16.14)

**Sec. 4-275. Clearwater inspections.**

(a) The building inspection division shall, when deemed necessary by the Director of Public Works or designee thereof, or upon a reasonable request by the owner of record, conduct an inspection of the premises to ensure compliance with the provisions of the code relating to illegal surface or ground water connections into the sanitary sewer system.

(b) A notice of noncompliance shall be issued by the building inspection division to the owner of record of any building found not to be in compliance with the provisions of the code. The notice shall set forth areas of noncompliance and shall order the owner to bring the building into compliance within an established period of time.

(c) Failure to bring the property into compliance within the applicable compliance period shall constitute a violation of this section and shall be subject to the penalties set forth in Sec. 4-24.

(d) ***No warranty.*** An inspection meeting compliance only indicates that so far as can be reasonably determined by a visual inspection of the premises and review of City records, the premises meets the requirements of this section. Neither the City nor its inspectors assume any liability in the inspection findings, whether compliant or not, and the City does not guarantee or warrant the condition of the premises inspected.

(e) ***Not liable.*** The City will not be liable for any unsafe and/or unsanitary conditions that exist in any building inspected for clearwater compliance. However, if any such conditions exist, and are noticed by an inspector, authority

shall be granted to issue orders to correct such conditions. (Ord 187-04, §1, 1-1-05; Ord 160-10, §1, 11-23-10; Ord 10-16, §1, 1-12-16)

**Secs. 4-276 – 4-290. Reserved.**

## DIVISION 2. PERMITS

**Sec. 4-291. Required; exception.**

(a) No plumbing shall be done in the City without a permit being first issued therefore by the Inspection Supervisor and the paying of the proper fee as provided in this division. Such permits may be issued only to persons duly licensed to do plumbing under the laws of the state and bonded as required by §4-265; provided that any person actually owning and occupying a single-family residence may do plumbing therein without the license and bond, although such person shall secure a permit and work shall fully conform with all requirements as to workmanship, design and materials. Any person assisting such owner shall be a licensed master plumber. Any plumbing shall conform to all provisions of state law and state codes and the ordinances of the city.

(b) Any person desiring to do plumbing shall, before beginning active work, file with the Inspection Supervisor upon application blanks furnished by the City, a description of the property and the nature of the work to be done. A plan or sketch showing the location and manner of installing the work shall be furnished upon request of the Director. Plumbing plans and specifications for all buildings or structures requiring industrial commission approval shall be presented to the Director before a permit is granted.
(Code 1965, §16.10(1); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 3-06, §1, 1-10-06)

**Sec. 4-292. Plumbing fees.**

(a) The following fees shall apply to plumbing permits, and no permit shall be valid until the appropriate fee has been paid:

(1) The amount of the permit fee for any plumbing, sewer or water permit shall be on file in the Office of the City Clerk;

(2) The amount of the permit fees for residential one- (1-) and two- (2-) family buildings shall be on file in the Office of the City Clerk;

(3) The amount of the permit fees for multifamily apartment buildings and commercial or industrial structures shall be on file in the Office of the City Clerk.

(4) The fees in subsections (1) through (3) of this section apply to new and replacement installations. For repair work on existing installations, the permit fee shall be on file in the Office of the City Clerk.

(5) The amount of the permit fee for manholes and catch basins installed concurrently with laterals of private main shall be on file in the Office of the City Clerk.

(6) The amount of the permit fee for a septic tank and private disposal system shall be on file in the Office of the City Clerk.

(7) The amount of the permit fee for a water well shall be on file in the Office of the City Clerk.

(8) The amount of the permit fee for each fixture or appliance connected to the water supply or sewer, including trapped and untrapped openings in both sanitary and storm sewers, shall be on file in the Office of the City Clerk.

(b) The penalty for installation without a permit shall be triple the permit fee prescribed in this section when a permit is obtained. Payment of any fee mentioned in this section, however, shall in no way relieve any person of the penalties that may be imposed for violation of this article.
(Code 1965, §16.10(2); Ord 106-97, §1, 12-17-97)

**Sec. 4-293. Issuance for new or relocated building.**

No permit for plumbing in a new or relocated building shall be issued until:

(1) The Inspection Supervisor is satisfied that all unused sewer and water services to the premises are sealed;

(2) A sewer permit and building permit have been issued; and

(3) The connection fee required by §20-3 has been paid.

(Code 1965, §16.10(3)(a); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-294. Persons not eligible for permit.**

No plumbing or sewer permit shall be granted to anyone who has failed to comply with this article. No permit shall be issued to any person or to any master plumber against whom an order issued by the Inspection Supervisor is pending. No permit shall be issued to any person who has been found violating or has willfully violated this article. Bad faith or unreasonable delay in the performance of any work covered by this article or failure to respond promptly to official communications shall be deemed sufficient reason for withholding permits, and the master plumber shall be held responsible for the violation of these regulations by himself or any of his employees.
(Code 1965, §16.10(3)(b); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-295. Expiration.**

All permits issued under this division are good for a continuous performance of the work named thereon. Permits will automatically expire when work ceases for a period of sixty (60) days without good and reasonable cause for such cessation of work. A permit will automatically expire on completion of the work for which it was issued.
(Code 1965, §16.10(3)(c))

**Sec. 4-296. Cancellation for violation.**

The Inspection Supervisor may cancel a permit issued under this division on any job for violation of the license law or codes and ordinances, and to stop work in any case where installation is not being made in compliance with this article.
(Code 1965, §16.10(3)(d); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-297. Cancellation on request of plumber or owner.**

The Inspection Supervisor may cancel a permit issued under this division upon written request of a master plumber or the owner for which the work is being done; provided that acceptable arrangements shall first be made for reissuance of the permit to another master plumber for proper completion of the work. The original permit shall not be canceled until a master plumber applies for and is granted a permit to complete the work. The procedure for requested cancellation and reissuance of permits shall be as follows:

(1) If the master plumber does not complete the entire installation for which he received a permit, he shall immediately notify the Inspection Supervisor in writing requesting cancellation and detailing the extent of the work he has done.

(2) The person who has hired the master plumber may request cancellation in writing and shall then specify the name of the master plumber he is employing to finish the work.

(3) The work shall be stopped until a permit has been issued for completion.

(4) The original permit fee shall apply to the entire job, except that the minimum permit fee of fifteen dollars ($15.00) shall be paid for the second permit. If additional work is included on the new permit, such work shall be listed and the proper fee shall apply.

(5) If additional fixtures are roughed-in or installed before final inspection, they shall be added to the original permit on the cost-per-fixture basis.

(Code 1965, §16.10(3)(e); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Secs. 4-298 – 4-315. Reserved.**

## DIVISION 3. PLANS

**Sec. 4-316. Applicability of division.**

This division shall apply to all additions and alterations exceeding ten (10) plumbing fixtures as well as to plumbing of all new buildings and shall apply to all cases where there is a change of occupancy or use of a building which requires changes to or intended use of the plumbing so as to comply with this article for that occupancy or use.

(Code 1965, §16.10(9), Ord 38-02, §1, 3-25-02)

**Sec. 4-317. Plans to be approved by City Inspections Division.**

Plans and specifications for plumbing to be installed in or outside of all buildings, structures, parks, areas or complexes in the following classifications shall be submitted to the Inspections Division and written approval received before commencing work:

(1) Theaters and assembly halls;

(2) Schools and other places of instruction;

(3) Apartment buildings, hotels, motels, resorts and places of detention;

(4) Factories, offices and mercantile buildings; and

(5) Private interceptor main sewers. See Wisconsin Administrative Code, Chapter H 62.02(90)(b).

All non-code-complying portions of the plumbing system installed prior to complete plan approval shall be removed and replaced.

(Code 1965, §16.10(4); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-318. Plans to be approved by State Department of Health and Social Services.**

No permits will be issued to commence work on any plumbing job in the following classifications without plan approval from the Plumbing Division of the State Department of Health and Social Services:

(1) Health care and related facilities. See Wisconsin Administrative Code, sections H 62.15(1) and (2).

(2) State or municipally owned buildings.

(3) Reduced pressure zone principle type backflow preventers. See Wisconsin Administrative Code, section H 62.24(2)(a).

(4) Controlled roof drainage systems. See Wisconsin Administrative Code, section H 62.05(4).

(5) Mobile and manufactured homes.

(6) Mobile home parks, water and sewerage systems. See Wisconsin Administrative Code, section H 62.17(1)(a).

(7) Private domestic sewage treatment and disposal systems serving public buildings and experimental systems serving all buildings. See Wisconsin Administrative Code, section H 62.20(1)(c).

(Code 1965, §16.10(5))

**Sec. 4-319. Compliance with approved plans required.**

Actual installation shall conform with the plans approved pursuant to this Division. Any changes shall be submitted to the respective department for approval prior to installation. All work must also comply with the approved specifications.
(Code 1965, §16.10(6))

**Sec. 4-320. Stamping and signing of plans.**

All plans and specifications shall be sealed or stamped by a registered architect, engineer or registered plumbing designer in accord with Wisconsin Administrative Code, chapter A-E 1. A master plumber may design and submit for approval plumbing plans and specifications for a plumbing system which he is to install. Each sheet of plans and specifications the master plumber submits shall be signed, dated and include his state master plumber's license number. Where more than one (1) sheet is bound together into one (1) volume, only the title sheet or index sheet need be signed and dated by the person responsible for their preparation, provided the signed sheet clearly identifies the other sheets comprising the bound volume.
(Code 1965, §16.10(7))

**Sec. 4-321. Submission of plans.**

All plans, preliminary or complete, shall be submitted in duplicate. Work shall not commence until written approval for the preliminary or complete plans is received from the department. All pertinent data shall be a part of or shall accompany all plans submitted for review. Plans shall be examined in the order of their receipt.
(Code 1965, §16.10(8))

**Sec. 4-322. Plan examination fees.**

(a) Plan examination fees for preliminary or complete plans shall accompany the plans and specifications when submitted. If the Inspections Division determines upon review of the plans that inadequate fees were provided, the additional fee shall be provided prior to departmental approval. Written approval shall not be granted until all applicable fees have been paid.

(b) Examination fees may be adjusted annually in direct proportion with the salary increases granted staff personnel.

(c) The plan examination fee shall be as established by the Wisconsin Department of Safety and Professional Services. A schedule of said fees shall be on file in the Inspections Division.
(Code 1965, §16.10(10); Ord 176-93, §1, 10-19-93; Ord 48-94, §1, 4-6-94; Ord 118-96, §1, 12-18-96; Ord 25-12, §1, 3-7-12)

**Sec. 4-323. Revisions.**

After written approval is granted, plans and specifications of the plumbing shall not be changed without written consent of the Inspections Division and the architect, engineer, designer or master plumber responsible for the design.
(Code 1965, §16.10(11); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-324. Liability for defects in work.**

In granting approval of plans, specifications, products, devices or materials, the Inspections Division does not hold itself liable for any defects in construction, nor for any damages that may result from the specific installation.
(Code 1965, §16.10(12); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Sec. 4-325. Copy of plans to be kept at construction site.**

The architect, professional engineer, registered designer, owner or plumbing contractor shall keep at the construction site one (1) set of plans bearing the stamp of approval of the respective department.
(Code 1965, §16.10(13))

**Secs. 4-326 – 4-340. Reserved.**

## ARTICLE VI. ELECTRICAL

## DIVISION 1. GENERALLY

### Sec. 4-341. Adoption of the State Electrical Code, State Statutes and other standards.

The Wisconsin Administrative Code, SPS chapters 305 and 316, §101 subchapter IV and We Energies meter manuals are hereby adopted by reference and made a part of this article with the same force and effect as though set out in full in this article.
(Code 1965, §17.01; Ord 85-97, §1, 10-15-97, Ord 213-01, §1, 11-26-01; Ord 36-09, §1, 3-10-09, Ord 13-15, §1, 3-24-15 (renumbered from Sec. 3-342))

### Sec. 4-342. Definitions.

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

***Electrical work.*** Electrical work means and includes the installation of electrical wiring, devices and equipment for the production, modification, utilization or safeguarding of electrical energy as covered by the code adopted in §4-341.

***Electrical contractor*** means a legal entity licensed by the State of Wisconsin under SPS 305.41.

***Maintenance*** includes only the necessary repairs to provide the safe operation of previously installed electrical equipment.
(Code 1965, §17.03, Ord 212-01, §1, 11-26-01, Ord 48-02, §1, 4-3-02; Ord 36-09, §1, 3-10-09; Ord 27-12, §1, 3-21-12, Ord 13-15, §1, 3-24-15 (renumbered from Sec. 3-341))
**Cross reference(s)--**Definitions and rules of construction generally, §1-2, electrical distribution system in mobile home parks, §11-78.
**State law reference--**Electrical conservation in public buildings and places of employment, W.S.A. §101.80 et seq.

### Sec. 4-343. Enforcement generally.

The electrical inspector shall enforce all the ordinances or laws relating to electrical installation, including any lawful orders issued by the Department of Safety and Professional Services or any other agency of the State; there is hereby vested in the electrical inspector the necessary power and authority to properly execute such duties.
(Code 1965, §17.02(1); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 85-97, §1, 10-15-97; Ord 25-12, §1, 3-7-12, Ord 13-15, §1, 3-24-15)

**Sec. 4-344. Authority to discontinue electrical service.**

In case of emergency and where electrical currents are dangerous to life or property or may interfere with the work of the Fire Department, the electrical inspector may order all electrical currents disconnected.
(Code 1965, §17.02(2); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 36-09, §1, 3-10-09; Ord 13-15, §1, 3-24-15)

**Sec. 4-345. Periodic inspection.**

The electrical inspector periodically shall make thorough examinations of all the electrical wires and appliances installed in places of public use and occupancy within the City. When such wires or appliances are found to be in a dangerous or unsafe condition, he shall notify the person owning, using, operating or installing the wires or appliances to place them in a safe condition. The electrical inspector may order the discontinuance of electrical service to such defective wires or equipment until they have been repaired, removed or changed as directed by the electrical inspector, subject to the limitations of this article.
(Code 1965, § 17.02(3); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 36-09, §1, 3-10-09; Ord 13-15, §1, 3-24-15)

**Sec. 4-346. Notification for inspection; concealment of wiring.**

Upon the completion of the wiring of any building or before any wiring is to be hidden from view, or prior to reconnecting of service drop or reattachment of electric meter, the person doing the wiring shall notify the electrical inspector. The electrical inspector shall inspect within two full business days following the day of notification, excluding weekends and holidays. If, upon inspection, it is found that such installation is fully in compliance with this article and does not constitute a hazard to life or property, the electrical inspector shall approve the installation and authorize concealment of such wiring or connection for electrical service. If the installation is not strictly in accordance with this article, he shall issue orders to the person installing the wiring to remove all hazards and make the necessary changes or additions within ten (10) days. Concealment of electrical work before inspection or failure to comply with the order of the electrical inspector shall constitute a violation of this article. A contractor or his employee, or an owner doing his own work as permitted by section 4-392(c) shall be present for the final inspection.
(Code 1965, §17.07; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 53-95, §1, 5-3-95; Ord 118-96, §1, 12-18-96, Ord 214-01, §1, 11-26-01; Ord 13-15, §1, 3-24-15)

**Sec. 4-347. Reserved.**

(Code 1965, §17.08; Ord 13-15, §1, 3-24-15)

**Sec. 4-348. Certificate of Inspection.**

No Certificate of Inspection shall be issued for work regulated under this article unless the electric light, power or heating installation and all other electric apparatus connected with it are in strict conformity with the provisions of this article.
(Code 1965, §17.09(1); Ord 13-15)

**Sec. 4-349. Exceptions to construction requirements.**

(a) Type NM or NMC nonmetallic sheathed cable shall not be used as the wiring method in buildings and structures other than single-family and multifamily dwellings.

(b) All service entrance conductors shall be installed in a raceway.
(Code 1965, §17.09(2), Ord 215-01, §1, 11-26-01; Ord 36-09, §1, 3-10-09; Ord 148-11, §1, 6-7-11)

**Sec. 4-350. Review of condemnation order.**

When the electrical inspector condemns all or part of the electrical installation in any building, the owner, within five (5) days after receiving written notice from the electrical inspector, may file a petition in writing for review of the action of the electrical inspector to the chairman of the Board of Building Inspection in accordance with §4-26.
(Code 1965, §17.10; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 36-09, §1, 3-10-09; Ord 13-15, §1, 3-24-15)

**Sec. 4-351. Liability for defects in work.**

This article shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing or repairing any electrical equipment for damages to anyone injured or any property destroyed by any defect therein. The City and its elected or

appointed officials shall not be held as assuming any liability by reason of this article, the inspection authorized in this article, or the certificate issued.
(Code 1965, §17.11)
***Editor's Note:** Division 2, Board of Electrical Examiners was repealed as part of Ord 36-09.

**Secs. 4-352 – 4-390. Reserved.**

## DIVISION 2. LICENSE

**Sec. 4-391. Required.**

No person, either individually, as a member of a firm, or as an officer or employee of a corporation, shall conduct the business of electrical wiring, electrical construction or contracting, unless such person has a license as required by §101.862
(Code 1965, §17.05(1)-(3); Ord 50-94, §1, 4-6-94, Ord 216-01, §1, 11-26-01, Ord 65-07, §1, 3-27-07; Ord 36-09, §1, 3-10-09; Ord 13-15, §1, 3-24-15)

**Sec. 4-392. Exemptions.**

As allowed under §101.862(4)(a), a residential property owner may perform electrical work in his own dwelling which he owns and occupies without a license as long as the work is being conducted in a single family dwelling. Electrical work performed on a residential property which is not a single family owner occupied dwelling will need to be performed by a licensed electrical contractor. The owner of the property must procure a permit prior to starting any electrical work.
(Code 1965, § 17.05(6); Ord 13-15, §1, 3-24-15)

**Secs. 4-393 – 4-415. Reserved.**

(Ord 13-15, §1, 3-24-15 (repealed sections 4-393 – 4-397))

## DIVISION 3. PERMITS

### Sec. 4-416. Application; issuance.

The Inspection Department shall issue permits for all electrical installations to the licensed electrical contractor in charge for light, heat or power upon filing of proper application, which shall be made on forms furnished by the Director. The permit application shall describe the nature of the work as well as such other information as may be required for inspection. Permits shall be issued prior to the start of any electrical work. No permit shall be required for repairs necessary for the proper maintenance of an existing installation. Electrical permits are required for demolition of any part of an electrical system. The electrical inspector may require the applicant to furnish additional plans and specifications covering the work to be done in addition to the items that are required in (1) and (2) of this section.

(1) **A photometric study**: For commercial and industrial projects where emergency lighting is required, modified or where exit paths have changed, a photometric plan is required. Illumination levels shall be noted on the study using the point-to-point method having a maximum spacing of two feet on center.

(2) **Photovolatic (PV) Systems**: Requirements as listed in the "Photovoltaic System Permit Requirements" handout.

(Code 1965, §17.06(1); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 66-07, §1, 3-27-07; Ord 13-15, §1, 3-24-15)

### Sec. 4-417. Reserved.

(Code 1965, § 17.06(2); Ord 85-97, §1, 10-15-97; Ord 25-12, §1, 3-7-12; Ord 13-15, §1, 3-24-15)

### Sec. 4-418. Electrical fees.

(a) ***Generally***. Permit fees for the installation of wiring and electrical equipment shall be as provided in this section.

(b) ***One- and two-family dwellings***. The amount of the permit fee for one- (1-) and two- (2-) family dwellings (new construction and additions) shall be on file in the Office of the City Clerk.

(c) ***Multiple-family buildings***. The amount of the permit fee for multiple-family buildings (new construction and additions) shall be on file in the Office of the City Clerk.

(d) ***Commercial or industrial buildings***. For commercial or industrial buildings (new construction and additions) and alterations to all existing buildings, the amount of the permit fees shall be on file in the Office of the City Clerk.

(e) ***Change of service***. The fee for change of service shall be on file in the Office of the City Clerk.

(f) ***Photovoltaic (PV) systems.*** The fee for a PV system shall be on file in the Office of the City Clerk.

(g) ***Penalty for commencing work without permit***. The fee for installation of wiring or electrical equipment without a permit shall be triple the permit fee prescribed in this section when a permit is obtained. Payment of any fee mentioned in this subsection shall in no way relieve any person of the penalties that may be imposed for violation of this Article.

(h) ***Reinspection.*** A thirty-five dollar ($35.00) call back inspection fee may be charged each time a reinspection is necessary due to failure to correct, faulty, defective or incomplete work identified during a prior inspection.

(Code 1965, § 17.06(3)(a)--(f), (h), (i); Ord 106-97, §1, 12-17-97, Ord 218-021, §1, 11-26-01; Ord 67-07, §1, 3-27-07; Ord 13-15, §1, 3-24-15)

### Sec. 4-419. Use of license to obtain permit for another.

It shall be unlawful for any licensed electrical contractor or person with a master's license to allow the use of said license, directly or indirectly, for the purpose of obtaining local electrical permits for others.

(Code 1965, § 17.06(3)(g); Ord 13-15, §1, 3-24-15)

### Sec. 4-420. Temporary installations.

On applying for an electrical permit for temporary work, a specified period of time for which such wiring is to remain in service must be stated. Service shall be cut off at the end of this period and shall not again be connected without written permission from the electrical inspector.

(Code 1965, § 17.06(4))

**Secs. 4-421 – 4-435. Reserved.**

## ARTICLE VII. MECHANICAL

### DIVISION 1. GENERALLY

**Sec. 4-436. Penalty for violation of article.**

Any person who shall violate any provision of this article shall be subject to a penalty as provided in §1-16.
(Code 1965, §18.14)

**Sec. 4-437. Inspections.**

Article II, Division 4 of this chapter shall apply to inspection of work regulated under this article.
(Code 1965, §18.03)

**Sec. 4-438. Appeals.**

Any person directly interested who is aggrieved by any decision of the Inspection Supervisor or the Board of Heating Examiners in the execution of their duties pursuant to this article may appeal from any decision to a Heating Board of Appeals, which shall consist of three (3) recognized contractors for work governed by this article or holders of licenses under this article, one (1) of whom shall be chosen by the party taking the appeal, one (1) by the Inspections Division, and the third person chosen by the other two (2) members. The appeal shall be taken by the person aggrieved by giving written notice of such appeal to the Inspections Division at its office within twenty-four (24) hours after such decision is made. The selection of the members of the Heating Board of Appeals shall be made at once and the Board shall meet within forty-eight (48) hours after the giving of such notice and shall render a decision within five (5) days thereafter, which shall be in writing. Any interested party, including the Inspections Division, shall have the right to present the case to the Heating Board of Appeals, whose decision shall be final. The members of the Appeal Board shall serve without pay.
(Code 1965, §18.01(5); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Secs. 4-439 – 4-455. Reserved.**

## DIVISION 2. BOARD OF HEATING EXAMINERS

### Sec. 4-456. Membership; organization.

The Board of Heating Examiners shall consist of seven (7) members: the Fire Chief; five (5) licensed heating contractors, to be as diversified as possible, and one (1) member of the Common Council. The Inspection Supervisor shall be secretary of the Board without a vote, except in case of a tie vote, and shall keep a record of all its meetings and transactions. All appointments shall be for a term of two (2) years, except that the term of office of the Council member shall be one (1) year. At the regular meeting in October, the Board shall elect its chairman for the ensuing year.
(Code 1965, §18.01(4)(b); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

### Sec. 4-457. Procedures.

The Board of Heating Examiners may adopt such rules of procedure for conduct of its meetings and for examination of applicants and for revocation and suspension of licenses as are reasonably calculated to carry out the purposes of this article.
(Code 1965, § 18.01(4)(c))

### Secs. 4-458 – 4-475. Reserved.

## DIVISION 3. LICENSE

### Sec. 4-476. Required.

(a) ***Generally.*** No person shall engage in the business of installation, servicing, repairing or cleaning of heating, ventilating or air conditioning equipment without first obtaining a license therefore as required in this Division.

(b) ***Firms, partnerships and corporations***. A firm, partnership or corporation may perform or contract to perform the work described in subsection (a) of this section so long as it employs a person licensed under this Division who shall have immediate supervision of such work. If the licensee ceases to be employed by such firm, partnership or corporation, a new licensee shall be employed within sixty (60) days.

(c) ***Persons considered licensed***. A person licensed under this division and the person who employs such licensee shall be a licensed heating contractor for purposes of this article.

(d) ***Exemption for homeowners***. The owner and occupant of his own home may do the heating work described in subsection (a) of this section in such home without a license, but he must obtain a permit therefore and such work must be inspected and approved by the Inspections Division.
(Code 1965, §18.01(1); Ord 176-93, §1, 10-19-93)

### Sec. 4-477. Application.

Application for a heating contractor's license shall be made to the Inspection Supervisor on a form approved by the Board of Heating Examiners. Such application may contain such information as the Board deems relevant to establish the qualifications of the applicant and must state a place of business. If the applicant operates more than one (1) place of business, a separate license must be obtained for each such place of business.
(Code 1965, §18.01(2); Ord 32-92, § 1, 3-18-92; Ord 174-93, §1, 10-19-93)

### Sec. 4-478. Fee; renewal.

Each application under this Division shall be accompanied by a fee of five dollars ($5.00) which shall cover the cost of examination. Applicants passing the examination shall be granted a first year's license upon the payment of an additional fee of fifteen dollars ($15.00). The license shall expire on December 31. The annual fee for renewal of such license shall be five dollars ($5.00). The license may be renewed up to September 1 upon the payment of the further sum of one dollar ($1.00) for each month the applicant is delinquent.
(Code 1965, §18.01(3); Ord 56-09, §1, 4-28-09)

**Sec. 4-479. Examinations.**

The City Clerk shall refer each application under this Division to the Board of Heating Examiners, who shall test each applicant's knowledge and experience as a heating contractor by written examination. All examination papers and the results of each examination shall be kept on file in the office of the Inspections Division.
(Code 1965, §18.01(4)(a); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 56-09, §1, 4-28-09)

**Sec. 4-480. Revocation; suspension.**

The Board of Heating Examiners may revoke or suspend a license under this Division for a violation of any provision of this article after notice and a public hearing according to the rules of the Board. When a license has been suspended or revoked, no license shall again be issued under this Division to such licensee until he has furnished a bond in the sum of two thousand dollars ($2,000) for the faithful performance of all work to be performed under the license.
(Code 1965, §18.01(4)(d))

**Secs. 4-481 – 4-495. Reserved.**

## DIVISION 4. PERMITS

**Sec. 4-496. Required.**

A permit shall be required for new installations and additions and alterations to any type of heating, ventilating and air conditioning installation and any type of ductwork.
(Code 1965, §18.02(4))

**Sec. 4-497. Heating fees.**

Heating, ventilating and air conditioning permit fees shall be required as follows for the following installations:

(a) ***Residential heating systems***. For new one- (1-) and two- (2-) family residential heating systems, the amount of the permit fee shall be on file in the office of the City Clerk.

(b) ***Residential alterations***. For alterations to one- (1-) and two- (2-) family buildings, including equipment replacement and conversions, the amount of the permit fee shall be on file in the office of the City Clerk.

(c) ***Residential central air conditioning***. For one- (1-) and two- (2-) family residential central air conditioning systems, the amount of the permit fee shall be on file in the office of the City Clerk.

(d) ***Commercial and industrial installations***. For commercial and industrial installations, including new installations, alterations or additions to heating, ventilating, air conditioning and exhaust systems, the amount of the permit fee shall be on file in the office of the City Clerk.

(e) ***Stoves; fireplaces***. The amount of the permit fee for wood burning stoves and fireplaces shall be on file in the office of the City Clerk.

(f) ***Late penalty***. The penalty fee for a late permit application shall be a double fee.

(g) ***Penalty for commencing work without permit.*** The fee for installation of any heating, ventilating or air conditioning unit without a permit shall be triple the permit fee prescribed in this section when a permit is obtained. Payment of any fee mentioned in this subsection shall in no way relieve any person of the penalties that may be imposed for violation of this article.
(Code 1965, §18.02(2); Ord 106-97, §1, 12-17-97)

**Sec. 4-498. Application; issuance.**

Article II, Division 3 of this chapter shall apply to the application for and issuance of permits to do work under this article.
(Code 1965, §18.02(1))

**Sec. 4-499. Use of license to obtain permit for another.**

No licensee under this article shall take out a permit for work to be done by another contractor. Violation of this Section shall be cause for revocation of the contractor's license and the Inspections Division may refuse the work.
(Code 1965, §18.02(3); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

**Secs. 4-500 – 4-515. Reserved.**

**DIVISION 5. INSTALLATION STANDARDS**

**Sec. 4-516. Forced warm air winter air conditioning.**

The term "forced warm air winter air conditioning system", when used in this article, means one (1) or more air heating units within individual housing or within one (1) common housing, one (1) or more motor-driven blowers, smoke or vent pipes, individual leader pipes or truck line systems, or both, with necessary control dampers for supply and return air, automatic controls, registers, face and grilles, and with provision for other appurtenances such as filters, air washes, ozonators, humidifiers and the like as may be desired.
(Code 1965, §18.05, Ord 101-02, §1, 7-9-02; Ord 56-09, §1, 4-28-09)

**Sec. 4-517. Perimeter heating.**

The term "perimeter heating", when used in this article, means a system of heating wherein the warm air is circulated to registers located on the outside walls at or near the floor of the structure heated.
(Code 1965, §18.07, Ord 101-02, §1, 7-9-02; Ord 56-09, §1, 4-28-09)

**Secs. 4-518 – 4-520. Reserved.**

**Sec. 4-521. Electric heating.**

Electric heating, as applies to this article, covers good installation procedures, central boilers, furnaces, heat pumps and the like. Electric baseboard radiation and resistance heating equipment may be sold by contractors licensed under this article, but all electrical work and electrical permits must be by a licensed electrical contractor. All resistance heating equipment must be installed to comply with manufacturer's recommendations.
(Code 1965, §18.09)

**Sec. 4-522. Oil burners and oil burner equipment for single- and two-family residences.**

(a) ***Definitions.*** The term "oil burner", when used in this section, shall mean any device, for use in connection with a heating system, designed to burn fuel oil having a flash point of one hundred (100) degrees Fahrenheit or higher as determined by the tag closed tester in accordance with the method of test adopted by the American Society for Testing Materials (ASTM designation D56-21) and having a fuel tank or container with a capacity of more than ten (10) gallons connected thereto. The term "oil burner equipment" shall mean the oil burner and all tanks, piping, pumps, control devices and accessories used in connection therewith. This section shall not apply to portable burners not requiring connection to a flue, such as oil stoves, oil heaters and oil lamps equipped with a wick or a mechanical device, the movement of which is essential to flame adjustment.

(b) ***Approval standards***. The approval of oil burners, fuel oil, use of nonautomatic burners, gravity feed to oil burners, pressure tanks, underground tanks, tanks inside buildings, tank construction, tank vents, tank fill and overflow pipes, gauges, pumps, piping valves, heating oil, tests of tank covering, burner controls modifications, fireproofing and all other installation details shall conform with the specifications set forth in this article and in NFPA No. 31, *Installation of Oil Burning Equipment, of the National Board of Fire Underwriters.*

(c) ***Air supply***. Fresh air must be supplied to any automatic fired heating unit where the unit does not have any other means of receiving air to the burner. All oil burning installations must have a barometric draft stabilizer properly installed.

(d) ***Fuel oil tanks.***

(1) Inside fuel oil tanks cannot be more than two hundred seventy-five (275) gallons in capacity, but two (2) such tanks may be connected with a three-way valve. Any tank larger in size is to be enclosed by a masonry type wall not less than four (4) inches thick. No tank may be more than five hundred (500) gallons in capacity.

(2) Where a fuel line crosses the floor, only copper tubing is to be used and the tubing must be buried in the floor or properly protected. Fuel oil tanks located in the basement must be five (5) feet five (5) inches from the point of the heating unit or burner. Fill pipe is to be two-inch pipe and vent pipe is to be one-and-one-quarter (1¼) inch pipe.

(3) Every fuel oil tank must be supplied with a proper size oil filter unless the oil burner does not require a filter.

(4) Every fuel oil tank installed inside must be supplied with a tank whistler one and one-fourth (1¼) inches in size and a fuel oil gauge.

(5) All fuel oil fill and vent pipes are to be vented to the outside of the building and may not be installed in garages. Outside fuel oil tanks of over fifty-gallon capacity must be buried according to the flammable liquids code of the state industrial commission. No tank over fifty (50) gallons in capacity may be installed above ground unless there is a masonry wall at least four (4) inches thick and on a concrete footing of at least six (6) inches.

(6) Oil tanks inside using an overhead system to the burner must use a return line system (two-pipe system).

(Code 1965, §18.10; Ord 56-09, §1, 4-28-09)

**Sec. 4-523. Reserved.**

(Code 1965, §18.11, Ord 101-02, §1, 7-9-02)

**Sec. 4-524. Gas-fired equipment.**

(a) ***Generally.***

(1) The purpose of this section is to provide minimum standards for the design and installation of gas-fired equipment and associated piping. All gas space heating equipment installed in the City is subject to the inspection and approval of the City Inspections Division, which may order the installer or the gas company to disconnect any equipment which does not meet the requirements to this article, and no person shall reconnect the equipment until authorized by the Inspections Division to do so.

(2) Gas companies may discontinue or refuse to supply for any gas piping or equipment which is in violation of this article or otherwise considered to endanger life or property, provided that the gas company shall immediately give notice of discontinuance to the Inspections Division and the owner or occupant of the building or premises where such gas supply is discontinued or refused. In all cases where the supply of gas has been discontinued for safety reasons, the gas shall not again be supplied until authorized by the Inspections Division.

(3) Gas appliances shall not be installed in any location where flammable vapors are likely to be present unless the design, operation and installation are such as to eliminate the possible ignition of the flammable vapors.

(4) Every appliance shall be located so that it will be readily accessible for operation and servicing.

(5) Gas appliances shall be adequately supported and so connected to the piping as not to exert undue stress on the connections.

(6) Every gas appliance installed shall be properly adjusted by the person making the installation, and no such appliance, following the installation, shall be left connected to the gas piping unless every reasonable precaution has been employed to ensure safe operation of the burners and proper combustion of the gas, due attention being given to draft conditions and ventilation.

(7) In no case shall an appliance be adjusted to pass a greater amount of gas than the minimum nameplate rated capacity.

(8) No person shall, without the approval of the Inspections Division, display, sell, barter, replace, offer for sale, lease, deal in, supply, rent, donate, connect or install within the City any device purporting to reduce gas consumption when such device is intended as an adjunct or addition to a gas appliance or is suspended above or will wholly or partially enclose any burner of a gas appliance in such a manner as to impair the combustion of the gas issuing from the burner.

(9) The requirements of this article are minimum requirements and any questions concerning the safe installation of gas burning equipment which is not specifically covered in this article shall be resolved in accordance with the American Standard entitled *Installation of Gas Appliances and Gas Piping,* number Z, 21.30, latest edition and supplements, available from the American Gas Association or from the local gas distributing company.

(b) ***Design and conversion of central heating furnaces.***

(1) All new gas-fired central heating equipment of either design type or conversion type shall be approved and listed by the American Gas Association Laboratories or the Underwriters Laboratories, Inc., or some other approved agency. The manufacturer's name, model and BTU input shall be shown on a permanent marker attached to the furnace or boiler. The manufacturer's operating instructions shall be securely attached in a conspicuous location on or near the heating plant.

(2) No person shall install used central heating equipment unless a permit has been issued authorizing the installation.

(3) A central heating boiler or furnace shall be erected in accordance with the manufacturer's instructions and shall be installed on a firm, level, fire-resistive foundation unless listed for installation on a combustible floor or the floor is protected in an approved manner.

(4) Central heating boilers and furnaces shall be installed with clearances not less than specified in accordance with their listings. Suitable precautions should be taken in accordance with prescribed practices whenever it is necessary to

install a vent near combustible materials.

(5) Furnaces of the revertible flue type shall be designed or modified to prevent the accumulation of gas in any part thereof. All gas-fired units, either design or conversion, must have an escape door to allow pressure to escape. One- (1-) inch steel pipe is to be fastened to the radiator (seal joint) at one (1) end and the other end is to terminate in breaching or a chimney.

(6) The furnace and chimney must be cleaned. The chimney must be examined to determine if a liner is required.

(7) Central heating boilers and furnaces on natural gas shall have a manual main shutoff valve provided ahead of all controls three (3) to five (5) feet above the floor for shutting off the main burner gas.

(8) A union connection shall be provided downstream from the main manual shutoff valve to permit removal of the controls.

(9) All shutoff devices installed for use on liquefied petroleum gas furnaces and boilers shall be designed to shut off the gas supply to both the main burner and the pilot burner when the pilot flame is extinguished.

(10) A handle is required on the main shutoff valve.

(11) Gas-fired steam and hot water boilers shall be provided with approved automatic devices to shut down the burner in the event of undue pressure or low water in a steam boiler or overheating in a hot water boiler.

(c) ***Room heaters***.

(1) A room heater is a freestanding type of circulation heater installed in the room or area which it is intended to heat.

(2) A room heater shall be placed so as not to cause a hazard to walls, floors, curtains, furniture, doors when open, and the like, and to the free movements of persons within the room. Appliances designed and marked "For use in incombustible fire-resistive fireplace only" shall not be installed elsewhere. Room heaters shall be installed with clearance not less than specified in accordance with their listings. In no case shall the clearance be such as to interfere with the requirements of combustion air and accessibility.

(d) ***Floor furnaces***. Floor furnaces are not permitted. A floor furnace is that type of furnace that is installed in the floor with no chance to work on the unit under or around the unit.

(e) ***Recessed wall heaters.***

(1) Recessed heaters may be installed in combustible construction. Recessed heaters should be installed in accordance with the manufacturer's instructions.

(2) The installation of recessed heaters shall be such as to make them accessible for cleaning of heating surfaces, removal of burners, replacement of sections, motors, controls, filters and other working parts, and for adjustment and lubrication of parts requiring such attention. Panels, grilles and access doors which must be removed for normal servicing operations shall not be attached to the building construction.

(f) ***Duct furnaces***.

(1) Gas-fired duct furnaces shall be installed with clearances in accordance with their listings. In no case shall the clearance be such as to interfere with the requirements for combustion air and accessibility.

(2) The ducts connected to or enclosing duct furnaces shall have removable access panels on both upstream and downstream sides of the furnace, unless all controls are accessible from the outside.

(3) The controls and draft hoods for duct furnaces shall be located outside the ducts. The draft hood shall be located in the same enclosure from which combustion air is taken.

(4) Circulating air shall not be taken from the same enclosure in which the furnace is located.

(5) Duct furnaces when used in conjunction with an air conditioning system shall not be located down-stream from the evaporator coil.

(6) A duct furnace shall be erected and firmly supported in accordance with the manufacturer's instructions.

(7) The installation of duct furnaces shall be such as to make them accessible for cleaning the heating surfaces, removal of burners,

replacement of sections, controls, draft hoods and other working parts, and for adjustment of parts requiring such attention.

(g) ***Unit heaters***. Suspended type gas-fired unit heaters shall be safely and adequately supported with due consideration given to their weight and vibration characteristics. The control side of a unit heater shall be spaced not less than eighteen (18) inches from any wall or partition.

(h) ***Gas-fired water heaters.***

(1) All gas-fired water heaters shall be vented into an approved chimney or vented with an approved type B metal vent, extending through the roof and capped with an approved type top to prevent back drafts.

(2) All natural gas-fired automatic water heaters shall be equipped with an automatic shutoff device which will shut off the gas supply to the main burner whenever the pilot flame is extinguished in accordance with requirements of the American Gas Association or other recognized testing authority.

(3) All shutoff devices installed for use on liquefied petroleum gas-fired water heaters shall be designed to shut off the gas supply to both the main burner and the pilot flame when the pilot flame is extinguished.

(4) All automatic control devices shall be located so as to be accessible for service work and the location of the heater in respect to adjacent walls and equipment shall allow easy access to all parts which may require repair or adjustment. (6) Manually operated shutoff valves shall be installed in the gas supply line near the heater and three (3) to five (5) feet above the floor with a proper handle.

(5) The water pipe for an automatic gas-fired water heater shall be equipped with a pressure and temperature relief valve.

(6) Gas-fired water heaters shall not be installed in bathrooms, bedrooms, or small unventilated rooms.

(7) Water heaters shall be located as close as practicable to the flue or vent.

(8) Water heaters shall be connected in a manner to permit observation, maintenance and servicing.

(9) No water heater shall be installed in a closed system of water piping unless an approved water pressure relief valve is provided.

(10) The installation and adjustment of temperature, pressure, and vacuum relief valves or combinations thereof, and automatic gas shutoff valves shall be in accordance with the requirements of the Inspections Division or with the manufacturer's instructions accompanying such devices.

(i) ***Gas flues and vents***.

(1) All water heaters, all types of central heating equipment, all enclosed fire zone circulating heaters and unit heaters installed shall be connected to adequate vents.

(2) All flue pipes from the heating unit to the chimney must be of standard galvanized iron of not less than 24-gauge or approved type B vents.

(3) The installation of a cap or other device on the outlet of an appliance vent which in any way obstructs the free passage of the products of combustion to the outside atmosphere is prohibited.

(4) In the underfloor area, the minimum pitch upward of lateral runs of vents from the appliance must be at least one-half inch per foot.

(5) The installation of dampers or stops in the vent pipe attached to any appliance equipped with a draft diverter is prohibited.

(6) No manually operated damper shall be placed in any flue or vent connector. Fixed baffles ahead of draft hoods are not classified as dampers.

(7) A flue or vent connector shall not be connected to a chimney flue having a fireplace opening unless the opening is permanently sealed.

(8) The flue or vent connector shall be installed so as to avoid short turns or other constructional features which would create excessive resistance to the flow of flue gases.

(9) Type B vents shall be used only with approved gas appliances which produce flue gas temperatures not in excess of five hundred fifty degrees (550°) Fahrenheit.

(10) Every vented appliance, except incinerators, and units designed for power burners or for forced venting, shall have a draft hood. If the draft hood is not a part of the appliance or supplied by the appliance manufacturer, it shall be supplied by the installer and in the absence of other instructions shall be the same size as the appliance flue collar unless not recommended by manufacturer.

(11) A gas appliance flue or vent connector and a smoke pipe from an appliance burning another fuel may be connected into the same flue through separate openings, or may be connected through a single opening if jointed by a "Y" fitting, located as close as practical to the flue. If two (2) or more openings are provided into one (1) flue they should be at different levels. Incinerators require special high temperature chimneys.

(12) In order to promote better draft where more than one (1) gas appliance flue or vent connector is connected to a flue or vent, the connections should be made at different levels.

(j) ***Gas piping.***

(1) All pipe or tubing used for the installation, extension, alteration or repair of any house gas piping shall be of standard weight and standard dimension, and such pipe or tubing shall either be new or have been used previously for no purpose other than the conveying of gas. All such pipe shall be free from internal obstructions, splits, or other imperfections which render it unfit for the purpose intended, and the ends thereof shall be properly reamed.

(2) The use of cast iron fittings is prohibited.

(3) Threaded joints shall be made up with any approved pipe thread compound.

(4) All gas piping inside buildings must be securely strapped to joists or the ceiling with metal straps or approved wire hangers.

(5) When installing gas piping which is to be concealed, unions, tubing fittings, running threads, right and left couplings, bushings and swing joints made by combination of fittings shall not be used.

(6) Semirigid gas tubing may be used to connect space heating appliances, provided it is of adequate capacity and approved.

(7) Gas piping in solid floors such as concrete shall be laid in channels in the floor suitably covered to permit access to the piping.

(8) When used on liquefied petroleum gas, the joints on seamless copper, brass, steel or nonferrous gas tubing shall be made by means of approved gas tubing fittings or brazed or approved flared fittings with a material having a melting point exceeding one thousand degrees Fahrenheit (1,000°).

(9) Gas pipe or tubing inside any building shall not be run in through an air duct, clothes chute, chimney or flue, ventilating duct, dumbwaiter, or elevator shaft, except a proper duct for the purpose.

(10) Each outlet, including a valve of cock outlet, shall be securely closed gastight with a positive plug or cap if the appliance is not to be connected at that time. When an appliance is removed from an outlet and the outlet is not to be reconnected at that time, it shall be securely closed gastight. In no case shall the outlet be closed with tin caps, wooden plugs, corks, and the like.

(11) When condensation of liquefied petroleum gas may occur, the piping shall be pitched back to the container, or suitable means shall be provided for vaporization of the condensate. Compounds used in making up joints shall be resistant to the action of LP gases.

(k) ***Gas storage tanks***. All outside storage tanks for the storage of liquefied petroleum gas that exceed five hundred (500) pounds capacity shall be on a solid, nonflammable footing and gravel or stone base area which extends beyond the tank in all directions for a minimum distance of two (2) feet. All such storage tanks shall be located per NFPA 58. (Code 1965, §18.12; Ord 176-93, §1, 10-19-9, Ord 101-02, §1,7-9-02; Ord 56-09, §1, 4-28-09)

**Secs. 4-525 – 4-540. Reserved.**

## ARTICLE VIII. SWIMMING POOLS

### Sec. 4-541. Purpose of article.

The purpose of this article is to provide protection and safety of individuals, provide land use controls and provide for the general health and welfare of the neighborhood.
(Code 1965, §22.05(1))

### Sec. 4-542. Definition.

For purposes of this article, swimming pool means any structure, basin, chamber or tank containing or capable of containing an artificial body of water for swimming, diving or recreational bathing, having a depth of two (2) feet or more at any point.
(Code 1965, §22.05(1))

### Sec. 4-543. Applicability of article.

This article shall apply to all new, remodeled, altered and relocated private swimming pools in one- (1-) and two- (2-) family residential properties in the City except that the protective enclosure requirements shall be retroactive to all existing swimming pools.
(Code 1965, §22.05(1); Ord 37-09, §1, 3-10-09)

### Sec. 4-544. Existing pools.

Existing swimming pools not in compliance with the fencing or enclosure requirements of this article shall be made to comply within twelve (12) months of the adoption of this article. Existing pools that are reconstructed or relocated shall be brought into compliance with the requirements of this article at the time of reconstruction or relocation.
(Code 1965, §22.05(8))

### Sec. 4-545. Penalty for violation of article.

Any person who shall violate any provision of this article shall be subject to penalty as provided in §1-16.
(Code 1965, §22.05(10))

### Sec. 4-546. Permits.

(a) ***Building permit***. A building permit is required for the installation, alteration or addition of a swimming pool. The permit fee shall be as provided in §4-161(8). A building permit shall be applied for and obtained prior to the installation, alteration or addition of any private residential swimming pool. The application for a permit shall be accompanied by a plot plan drawing of the premises upon which the proposed pool is to be installed. The plot plan shall show the size and shape of the lot, location and size of all buildings, structures and fences, existing or proposed, and any other information affecting the premises. The plot plan shall be accurate and dimensioned.

(b) ***Plumbing and electrical permits***. Plumbing and electrical permits are required for applicable installations for the operation of a swimming pool. Plumbing installations for the operation of a swimming pool are required to be done in compliance with state plumbing code under a plumbing permit. Electrical installations made for the operation of a swimming pool are required to be done in compliance with the Wisconsin Administrative Code, SPS 316, under an electrical permit.

(c) ***Penalty for commencing work without a permit***. Failure to obtain a required plumbing, electrical, and building permits are subject to the penalties in §4-418(f), §4-292(b) and §4-161(b).
(Code 1965, §22.05(2); Ord 37-09, §1, 3-10-09)

### Sec. 4-547. Variances.

The Board of Zoning appeals may grant variances and exceptions to this article as provided in the City zoning code.
(Code 1965, §22.05(9))

### Sec. 4-548. Location on lot.

The swimming pool and any pool accessory building structure and any pool equipment or structure shall not exceed fifteen percent (15%) of the total lot area of the lot on which it is located. No part of the swimming pool, pool accessory structure or pool equipment or structure shall be closer than three (3) feet to any side lot or rear lot line or closer to the street than the front setback line of the main building, except that if the pool or other structure is located in the side yard closer to the street property line than the rear wall of the main building it shall not be closer than six (6) feet from the side lot line.
(Code 1965, §22.05(3))

### Sec. 4-549. Protective enclosures.

(a) ***Required***. All private residential swimming pools, whether of an in-ground or aboveground type, shall be enclosed with an adequate and secure fence at least forty-eight (48) inches high above adjoining grade to prevent straying into the pool area. Fence requirements as set forth in the City zoning code shall apply. Required fences shall be constructed to prohibit the passage of a six-inch sphere between fence members. Any gate installed shall be provided with self-closing and self-latching devices which shall be on the inside of the gate at least thirty (30) inches above ground level. A pool dome or pool top fencing attached to the pool to extend at least forty-eight (48) inches above the ground or a pool cover capable of supporting one hundred (100) pounds per square inch of area are acceptable substitutes for fencing. Pool covers shall be fixed securely in place at all times when the pool is not supervised by a responsible person.

(b) ***Exception.*** Above grade pools with walls that are at least forty-eight (48) inches high at all points around the pool or have platforms and railings that are forty-eight (48) inches or more in height above grade with a railing space opening no greater than four (4) inches are not required to be enclosed as provided in subsection (a) of this section, but the ladders and stairways providing access to the pool shall be adequately secured to prevent entry whenever the pool is not in use.
(Code 1965, §22.05(4); Ord 37-09, §1, 3-10-09)

**Sec. 4-550. Lighting.**

Any area lighting for swimming pools shall be shielded to prevent the lighting of neighboring properties.
(Code 1965, §22.05(5))

**Sec. 4-551. Drainage.**

The draining of swimming pools shall be directed to a public storm sewer or catch basin connected to the public storm sewer. Drainage shall be controlled to prevent any adverse effect on adjoining property.
(Code 1965, §22.05(6))

**Sec. 4-552. Maintenance.**

All swimming pools shall be maintained in such a way as to not create a nuisance, hazard, eyesore, or otherwise result in a substantial adverse effect on neighboring properties or be in any way detrimental to public health, safety or welfare.
(Code 1965, §22.05(7))

*(The next page is 375)*

# Chapter 5

# Emergency Management

Purpose of chapter ..... 5-1
Definitions ..... 5-2
Powers and duties of Common Council ..... 5-3
Joint head of emergency government services ..... 5-4
Deputy head of emergency government services ..... 5-5
Powers and duties of heads of emergency government services ..... 5-6
Countywide duties ..... 5-6(a)
Municipal duties ..... 5-6(b)
Duties of Emergency Government Services Coordinator ..... 5-7
Emergency government organization ..... 5-8
Funding of emergency government program ..... 5-9
Violations ..... 5-10

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***State law reference(s)--**Emergency powers, W.S.A.; emergency management, W.S.A. §166.01 et seq.

**Sec. 5-1. Purpose of chapter.**

In order to prepare the City to cope with emergencies resulting from enemy action and natural or manmade disasters, it is declared to be necessary to establish an organization for emergency management, as set out in W.S.A. §166.01, conferring upon the persons specified in this chapter the powers and duties provided by this chapter.
(Ord 98-74, §1, (I)(1)), 8-8-74; Ord 113-06, §1, 9-26-06)

**State law reference(s) -** Similar provision, W.S.A. §166.01.

**Sec. 5-2. Definitions.**

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

***Civil defense*** means all measures undertaken by or on behalf of the City to prepare for and minimize the effect of enemy action upon the civilian population.

***Emergency management*** includes civil defense and means all measures undertaken by or on behalf of the City to prepare for and minimize the effects of enemy action and natural or manmade disasters upon the civilian population and to effectuate emergency repairs or the emergency restoration of vital public utilities and facilities destroyed or damaged by such action or disaster.

***Enemy action*** means hostile action by a foreign power which threatens the security of the City.
(Ord 113-06, §1, 9-26-06)

**Cross reference -** Definitions and rules of construction generally, §1-2.

**State law reference -** Similar definitions, W.S.A. §166.02.

**Sec. 5-3. Powers and duties of Common Council and Mayor.**

(a) The Common Council shall adopt an effective program of emergency management consistent with the State plan of emergency management. The Common Council may appropriate funds and levy taxes for this program.

(b) Emergency Management Coordinator shall be appointed by the Mayor as head of Emergency Management Services, subject to the confirmation of the Common Council.

(c) The Safety and Licensing Committee shall be designated as the committee of jurisdiction to act as an emergency management committee. The Committee shall retain policy-making and rule-making powers in the establishment and development of emergency management plans and programs.

(d) During the continuance of state of emergency proclaimed by the Governor, the Common Council may employ the Organization for Emergency Management and the facilities and other resources of that organization to cope with the problems of the emergency.
(Ord 98-74, §1 (II)(1) – (4)), 8-8-74; Ord 113-06, §1, 9-26-06)

**Cross reference -** Boards, committees, commissions, §2-51, et seq.

**Sec. 5-4. Organization for Emergency Management.**

(a) There shall be an Organization for Emergency Management which will coordinate resources and efforts during City-declared emergencies. Lead members of the organization include: the Mayor, the City Attorney, the Police Chief, the Fire Chief, the Director of Public Works, the Health Officer and the Emergency Management Coordinator.

(b) All officers and employees, together with those volunteer forces enrolled to aid them during a disaster, and all groups, organizations and persons who may by agreement or operation of law be charged with duties incident to the protection of life and property during disasters shall constitute the Emergency Management Organization.

(c) In preparing and executing the Emergency Management Program, the services, equipment, supplies and facilities of the existing departments and agencies of the counties and city shall be utilized to the maximum extent practicable, and the officers and personnel of such departments and agencies are directed to cooperate with and extend such services and facilities as are required by them.

(d) In order to ensure that in the event of an emergency all facilities of emergency management are extended to the fullest to meet such an emergency, the following responsibilities have been assigned to specific department heads named as Directors of Emergency Management Services:

(1) Police Chief – Director of police services;

(2) Director of Public Works – Director of engineering;

(3) Health Officer – Director of public health services;

(4) Fire Chief – Director of fire and rescue;

(e) Other department heads not specifically named will fulfill emergency and non-emergency duties as assigned under the City of Appleton Emergency Operations Plan. Nothing in this section shall have construed to limit the Emergency Management Coordinator from immediately commencing organizational and planning programs as required by the

City's Emergency Operations Plan adopted by the Common Council.
(Ord 113-06, §1, 9-26-06)

**State law reference** – Emergency government, W.S.A. §166.01 et seq.

**Sec. 5-5. Emergency Management Coordinator.**

There shall be an Emergency Management Coordinator designated for the City. He/She shall have the duties and responsibilities of the City head of Emergency Management Services.
(Ord 98-74, §(II)(5)), 8-8-74; Ord 113-06, §1, 9-26-06)

**Sec. 5-6. Deputy Emergency Management Coordinator.**

(a) The Mayor may appoint a Deputy Emergency Management Coordinator.

(b) The Deputy Emergency Management Coordinator will operate under the administrative direction of the Emergency Management Coordinator.
(Ord 98-74, §1(II)(6)), 8-8-74; Ord 113-06, §1, 9-26-06)

**Sec. 5-7. Powers and duties of the Emergency Management Coordinator**

The Emergency Management Coordinator shall:

(1) Coordinate the City Emergency Management Organization;

(2) Develop, promulgate and integrate into the county plan, emergency management plans for the operating services of the City;

(3) Coordinate participation of the City in such emergency management training programs and exercises as may be required on the county or state level.

(4) Coordinate the City emergency management training programs and exercises;

(5) Perform such other duties relating to emergency management as may be required by the Organization for Emergency Management.

(6) The duties of the Emergency Management Coordinator shall parallel those of the county Head of Emergency Management Services and he/she shall coordinate with the appropriate county Head of Emergency Management Services for the proper operation of the program within the appropriate county jurisdiction

(Ord 98-74, §1(III), 8-8-74; Ord 113-06¸§1, 9-26-06)

**Sec. 5-8. Incident management.**

In order to ensure that in the event of an emergency that all responding agencies have the ability to operate in a coordinated manner, utilizing a recognized management processes, incident management objectives, common terminology, common communication procedures and equipment designations, the City of Appleton formally recognizes and adopts the use of the Incident Command System (ICS) and the National Incident Management System (NIMS).
(Ord 113-06, §1, 9-26-06)

**Sec. 5-9. Funding of emergency management program.**

(a) The cost of equipment and services related directly to the implementation of the City Emergency Management Program shall be through the City budget.

(b) All monies received as revenues derived from federally subsidized programs shall revert to the City as appropriate.
(Ord 98-74, §1(V)(2), (3)), 8-8-74; Ord 113-06, §1, 9-26-06)

**Sec. 5-10. Violations.**

(a) It shall be unlawful for any person willfully to obstruct, hinder or delay any member of the emergency management organization in the enforcement of an order, rule, regulation or plan issued pursuant to the authority contained in this chapter.

(b) It shall be unlawful for any person to represent himself/herself as a member of an emergency management organization unless such person is a bona fide member of the appropriate organization.
(Ord 113-6, §1, 9-26-06)

*(The next page is 429.)*

# Chapter 6

# Fire Prevention and Protection

**ARTICLE I. IN GENERAL**
Intent of chapter ..... 6-1
Fire equipment ..... 6-2
Enforcement by Fire Chief ..... 6-3
Police assistance ..... 6-4
Right of entry ..... 6-5
Removal of fire hazards ..... 6-6
Vacation of buildings ..... 6-7
Investigation of fires ..... 6-8
Inspections generally ..... 6-9
Reserved ..... 6-10
Fire inspection required before occupancy ..... 6-11
Burning trash, rubbish, garbage, yard waste, etc. ..... 6-12
Open outdoor fires, outdoor fireplaces, cooking fires and barbecue grills, kettles and outdoor hibachis ..... 6-13
Careless smoking prohibited ..... 6-14
Posting of no smoking signs ..... 6-15
Portable fire extinguishers ..... 6-16
Sale of defective fire extinguishers ..... 6-17
Key box ..... 6-18
Fire department signs ..... 6-19
Fire alarms ..... 6-20
Malls ..... 6-21
Violations ..... 6-22
Reserved ..... 6-23 – 6-30

**ARTICLE II. FIRE DEPARTMENT**
Generally ..... 6-31
Duties of Fire Chief ..... 6-32
Wearing of name tag and badge ..... 6-33
Reserved ..... 6-34 – 6-42

**ARTICLE III. PERMITS**
Required ..... 6-43
Permits are required for the following ..... 6-43(b)
Floor finishing ..... 6-43(b)(1)
Lumber yards ..... 6-43(b)(2)
Vehicle tire rebuilding plants ..... 6-43(b)(3)
Magnesium use ..... 6-43(b)(4)
Cryogenic liquids ..... 6-43(b)(5)
Combustible fibers ..... 6-43(b)(6)
Dust explosion hazard ..... 6-43(b)(7)
Fumigation and thermal insecticidal fogging ..... 6-43(b)(8)
Flammable and combustible bulk storage ..... 6-43(b)(9)
Open burning ..... 6-43(b)(10)
Tents, membrane structure, canopies ..... 6-43(b)(11)
Fireworks/pyrotechnic displays ..... 6-43(b)(12)
Explosives ..... 6-43(b)(13)
Cellulose nitrate plastics ..... 6-43(b)(14)
Recyclables storage ..... 6-43(b)(15)
Storage tanks ..... 6-43(b)(16)

Temporary special permits ..... 6-44
Application ..... 6-45
Fees ..... 6-46
Issuance and posting ..... 6-47
Fee for failure to obtain permit ..... 6-48
Non-resident fees for Fire Department services ..... 6-49
Recovery of costs associated with technical rescue responses ..... 6-50
Reserved ..... 6-51 – 6-55

**ARTICLE IV. STANDARDS AND REQUIREMENTS**
Adoption of codes and standards ..... 6-56
Automatic sprinkler systems ..... 6-57
Intent of section ..... 6-57(a)
Definitions ..... 6-57(b)
Buildings and areas where required ..... 6-57(c)
Application to existing buildings ..... 6-57(d)
System types and approval of plans ..... 6-57(e)
Alternative materials and methods ..... 6-57(f)
Inspections ..... 6-57(g)
Maintenance ..... 6-57(h)
Water ..... 6-57(i)
Reserved ..... 6-58
Welding and cutting operations ..... 6-59
Outside storage of recyclables and building material ..... 6-60
Apartment buildings ..... 6-61
Smoke detectors ..... 6-62
Definitions ..... 6-62(a)
Buildings affected ..... 6-62(b)
Location and installation and smoke detectors ..... 6-62(c)
Approval ..... 6-62(d)
Department inspection and order ..... 6-62(e)
Conveyance of property ..... 6-62(f)
Discharge of hazardous materials ..... 6-63
Prohibited discharges ..... 6-63(a)
Spill notification ..... 6-63(b)
Responsibility for containment, cleanup and restoration ..... 6-63(c)
Reimbursement for costs of emergency services response ..... 6-63(d)
Site access ..... 6-63(e)
Public information ..... 6-63(f)
Enforcement ..... 6-63(g)
Civil liability ..... 6-63(h)
Miscellaneous standards ..... 6-64
Flame-spread classification ..... 6-65
Fireworks and pyrotechnic devices ..... 6-66
Posted occupant load ..... 6-67
Fire apparatus access roads ..... 6-68
Atrium furnishings ..... 6-69
Working plans of suppression/detection and control systems ..... 6-70
Plan review fee structure and requirements ..... 6-71
Miscellaneous fee ..... 6-71(1)
Multiple identical buildings ..... 6-71(2)
Shell buildings ..... 6-71(3)
Fire doors/shutters ..... 6-71(4)

Re-submission fee ..... 6-71(5)
Re-inspection fee ..... 6-71(6)
Fee for initiation without a permit ..... 6-71(7)
Maintenance, approval and registration of installed fire protection systems ..... 6-72
Maintenance ..... 6-72(a)
Approvals ..... 6-72(b)
Registration ..... 6-72(c)
Notification of special public assembly events ..... 6-73
Fire division walls and occupancy separation wall identification ..... 6-74
Repeat violation rule ..... 6-75

***Editor's Note:** Chapter 6, Fire Prevention and Protection, was repealed and recreated by Ord 23-09, adopted by the Common Council on January 7, 2009 and becoming effective January 13, 2009.

**State law reference(s)--**Fires and fire protection, W.S.A. §§101.09, 101.14 et seq.

## ARTICLE I. IN GENERAL

### Sec. 6-1. Intent of chapter.

It is the intent of this chapter to prescribe regulations consistent with the nationally recognized standard practice for the safeguarding, to a reasonable degree, of life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, from conditions hazardous to life and property in the use or occupancy of buildings or premises, and the adequacy of exit systems.
(Code 1965, §19.01; Ord 1-91, §1(19.01), 1-9-91; Ord 23-09, §1, 1-13-09)

### Sec. 6-2. Fire equipment.

(a) No person shall molest, tamper with, damage or otherwise disturb any apparatus, equipment or appurtenance belonging to or under the supervision and control of the Fire Department without authority from the Chief or his authorized representative.

(b) No person shall remove, tamper with or otherwise disturb any fire hydrant or fire appliance required to be installed or maintained under the provisions of this code, except for the purpose of extinguishing fires, training purposes, recharging or making necessary repairs or when permitted by the Fire Department. Whenever a fire appliance is removed as permitted herein, it shall be replaced or reinstalled as soon as the purpose for which it was removed has been accomplished. No person shall use or operate any hydrant or other valves installed on any water system intended for use by the Fire Chief for fire suppression purpose, and which is accessible to any public highway, alley or private way open to or generally used by the public, unless such person first secures permission from the Fire Department. This section does not apply to the use of a hydrant or other valves by a person employed by and authorized to make such use by the Water Department which supplies water to such hydrants or other valves.

(c) No person shall place or keep any post, fence, vehicle, growth, trash, storage or other material near any fire hydrant, Fire Department connection or fire protection system control valve that would prevent such equipment or hydrant from being immediately discernible or in any other manner deter or hinder the Fire Department from gaining immediate access to the equipment or hydrant. A minimum three- (3-) foot clear space shall be maintained around the circumference of the fire hydrants except as otherwise required or approved by the Fire Chief.

(d) Where on-site fire hydrants are required on private property, the City shall annually inspect, flush and, if necessary, paint said hydrants for the fee per hydrant on file with the City Clerk's Office. The owner shall be notified of any repairs or maintenance necessary, and it shall be the owner's responsibility to see that any repair or maintenance is performed in accordance with the National Fire Protection Association Standard 25, the City Water Utility's standard operating procedures and the American Water Works Standards for fire hydrant maintenance. The property owner or agent must call between April 1 and October 1 of each year to schedule the annual flush and inspection.

(e) The property owner or agent shall keep and maintain records indicating when the hydrants are flushed, painted and maintained. These records shall be made available to the City upon request.
(Code 1965, §19.14; Ord 1-91, §1(19-14), 1-9-91; Ord 59-91, §1, 6-20-91, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09; Ord 34-11, §1, 2-8-11)

### Sec. 6-3. Enforcement by Fire Chief.

The Fire Chief shall be responsible for fire protection. This chapter shall be enforced by the Fire Chief, designated by the City and the State as the "authority having jurisdiction", in all matters concerning this chapter and related fire prevention activities. The Fire Chief may appoint a Fire Marshal or other designee who will act on the Chief's behalf in matters concerning fire prevention.
(Code 1965, §19.03(1); Ord 1-91, §1(19.03), 1-9-91; Ord 23-09, §1, 1-13-09)

### Sec. 6-4. Police assistance.

Whenever requested to do so by the Fire Chief or his designee, the Chief of Police shall assign such available police officers as in his discretion may be necessary to assist the Fire Department in enforcing the provisions of this chapter.
(Code 1965, §19.03(5); Ord 1-91, § 1(19.03(5)), 1-9-91; Ord 23-09, §1, 1-13-09)

### Sec. 6-5. Right of entry.

(a) For purposes of this section, the authorized representative shall include all members of the Fire Prevention Program and all officers of the Fire Department.

(b) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Fire Chief or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises unsafe, the Fire Chief or his authorized representative may enter such building or premises at all reasonable times to inspect the building or premises or to perform any duty imposed upon the Fire Chief by this chapter.

(c) If such building or premises is occupied, the Fire Chief or authorized representative shall first present proper credentials and demand entry. If such building or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Fire Chief or his authorized representative, shall have recourse to every remedy provided by law to secure entry.

(d) If the owner or occupant denies entry, the Fire Chief or his authorized representative shall obtain a proper inspection warrant or other remedy provided by law to secure entry. No owner or occupant or any other persons having charge, care or control of any building or premises, shall fail or neglect, after proper request is made as provided herein, to promptly permit entry therein by the Fire Chief or his authorized representative for the purpose of inspection and examination pursuant to this chapter.
(Code 1965, §19.03(5); Ord 1-91, §1(19.03(5)), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-6. Removal of fire hazards.**

(a) Whenever an inspection by the Fire Chief reveals a fire hazard, the Fire Chief may provide a notice, in writing, upon the owner or occupant of the property giving the owner or occupant sufficient time in which to remove the hazard. If the fire hazard is not removed within the time prescribed, it shall be deemed a nuisance and the Fire Chief shall have the hazard removed by the City and the cost of removal reported to the Director of Finance and spread on the tax roll as a special charge against the property, as prescribed in §12-32 et seq.

(b) Within ninety (90) days after the removal of any flammable/combustible liquids tank, all barreled sludge or liquids must be removed from the property.
(Code 1965, §19.03(2); Ord 1-91, §1(19.03(2)), 1-9-91; Ord 4-93, §1, 1-6-93; Ord 6-95, §1, 2-1-95; Ord 23-09, §1, 1-13-09)

**Sec. 6-7. Vacation of buildings.**

(a) The Fire Chief is hereby empowered to close any building or structure, and order it vacated wherein violations of any regulations of this chapter are found and not abated within a reasonable time stipulated by him.

(b) Where the public is exposed to immediate danger, the Fire Chief is hereby empowered and directed to order the immediate closing and vacating of the building or structure.
(Code 1965, §19.03(4); Ord 1-91, §1(19.03(4)), 1-9-91; Ord 23-09, §1, 1-13-09))
**Cross reference(s)--**Unsafe buildings, §4-181 et seq.

**Sec. 6-8. Investigation of fires.**

The Fire Department shall investigate promptly the cause, origin and circumstances of each and every fire occurring in the jurisdiction of the City involving loss of life or injury to person or destruction or damage to property. If it appears to the Fire Department that such fire is of suspicious origin, they shall take immediate charge of all physical evidence relating to the cause of the fire and shall pursue the investigation to its conclusion. The Fire Department shall inform the Police Department and the State Fire Marshal of all suspicious fires and seek their assistance wherever necessary or required by law.
(Code 1965, §19.03(6); Ord 1-91, §1(19.03(6)), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-9. Inspections generally.**

The Fire Chief or his designee shall provide for the inspection of every public building and place of employment in accordance with W.S.A. §101.14 and shall comply with the provisions thereof. The Fire Chief shall, on a time schedule to be determined by the Common Council, report information regarding these inspections. Violations identified during inspections shall be recorded and kept on file in accordance with W.S.A. §101.14. Owners or occupants who do not show for a scheduled inspection appointment may be charged a fee. Repeated inspections or re-inspections resulting from continued non-compliance may subject an occupancy or property to a re-inspection fee and/or remedies as outlined in §6-75 "Repeat violation rule".
(Code 1965, §19.03(3); Ord 1-91, §1(19.03(3)), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-10. Reserved.**

**Sec. 6-11. Fire inspection required before occupancy.**

No person shall occupy or change the occupancy of a building or structure covered under Wisconsin Administrative Code, SPS Chapters 350-365 the Wisconsin Commercial Building Code, or the locally adopted International Fire Code used by or for public assembly, industrial, institutional, multifamily, office, or mercantile purposes until such building or structure has been inspected by the Fire Department.
(Code 1965, §19.04; Ord 1-91, §1(19.04), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-12, §1, 3-7-12)

**Sec. 6-12. Burning trash, rubbish, garbage, yard waste, etc.**

(a) No person shall build, maintain or allow to be operated or maintained on a premises controlled by him/her, any waste burner, refuse burner, trash burner or other similar appliance unless such device is permitted with the approval of the Inspections Supervisor and the Fire Chief, or his designee.

(b) No person shall operate an outside incinerator, burn garbage, or leaves within the City.
(Code 1965, §19.05(1), (3)-(5); Ord 1-91, §1(19.05(1), (3)-(5)), 1-9-91; Ord 174-93, §1, 10-19-93; Ord 119-96, §1, 12-18-96, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09)

**Sec. 6-13. Open outdoor fires, outdoor fireplaces, cooking fires and barbecue grills, kettles and outdoor hibachis.**

(a) No open outdoor fires, including fires confined within outdoor fireplaces and outdoor cooking fires, with the exception of fires fueled by natural gas, propane or charcoal in commercially manufactured appliances or a non-commercially manufactured appliance approved by the Fire Chief or his designee, shall be started by any person unless a permit is first obtained from the Fire Department. No permit shall be granted for open burning for multifamily occupancies without separate private yards for each tenant, nor without the property owner's permission, in a public right-of-way, alley or other public thoroughfare.

(1) Daily permits are available for bonfires, brush burns, wildland management burns, outdoor fireplaces and cooking fires.

(2) Annual permits are available for recreational fires in outdoor fireplace appliances. (January 1 through December 31).

(3) Annual and single day permits are valid 6:00 a.m. to 10:00 p.m. Sunday through Thursday, 6:00 a.m. to 12:00 a.m. Friday, Saturday, and any day/evening preceding a federal holiday.

(4) No permit will be issued for any fire within ten (10) feet of any building, structure, fence, combustible material or property line.

(5) Only those fuels and appliances approved by the Fire Chief or his designee shall be used.

(6) Burning is to be attended at all times by a person at least eighteen (18) years of age, with an approved means of extinguishing the fire available for use at the location of the fire.

(b) Barbecue grills, kettles, outdoor hibachis.

(1) Charcoal burners and other open-flame devices shall not be operated on combustible balconies or within ten (10) feet of combustible construction in all dwellings. Exceptions:

a. Single family dwellings.

b. Permanently piped natural gas fired barbecue grills, where dwellings, balconies, and decks are protected by automatic sprinkler system.

(2) Cylinders having water capacities greater than 2½ lb. (1 kg) [nominal 1 lb. (0.5 kg) LP-Gas capacity] shall not be located on balconies above the first floor that are attached to a multiple family dwelling of three (3) or more living units.

(c) No person shall install, use or maintain a woodfire furnace, stove or boiler that is not located within a building intended for habitation by humans within the City limits. This prohibition shall apply to furnaces, stoves or boilers installed after the effective date of this ordinance.

(d) The Fire Chief or his designee shall have the authority to prohibit any and all open burning when atmospheric conditions or local circumstances make such fire hazardous. No burning will be allowed if wind conditions will cause smoke, embers or other burning materials to be carried towards any building or other combustible material, nor anytime the wind is in excess of nine miles per hour (9 m.p.h.) as measured by the Outagamie County Emergency Communication Center.
(Code 1965, §19.05(2); Ord 1-91, §1(19.05(2)), 1-9-91, Ord 136-01, §1, 8-20-01; Ord 135-05, §1, 11-22-05; Ord 23-09, §1, 1-13-09; Ord 55-16, §1, 8-9-16)

**Sec. 6-14. Careless smoking prohibited.**

(a) It is unlawful for any person, by reason of careless, willful or wanton conduct in smoking or in the use of lighters or matches in smoking to set fire to any bedding, carpet, curtains, draperies, furniture, household equipment or other goods or chattels or to any building.

(b) A plainly printed notice of the provisions of this section shall be posted in a conspicuous place in every sleeping room of every place renting rooms for the accommodations of the public. Such printed notices shall also be posted in any place of public assembly where smoking is permitted.

(Code 1965, §19.06(1), (2); Ord 1-91, §1(19.06(1), (2)), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-15. Posting of no smoking signs.**

The Fire Chief shall post or cause to be posted no smoking signs in retail establishments where flammable or combustible materials are handled or sold and the act of smoking or striking a match or lighter device presents a fire hazard. Such signs shall be plainly visible on a contrasting background and shall be posted conspicuously in all areas where such hazards exist. Such sign shall bear the words "No Smoking" across the top in large letters, state the authority by which they are posted in smaller letters, and bear the signature of the Fire Chief.
(Code 1965, §19.06(3); Ord 1-91, §1(19.06(3)), 1-9-91; Ord 23-09; §1, 1-13-09)

**Sec. 6-16. Portable fire extinguishers.**

All public buildings within the City and wherever flammable and combustible materials including dusts, solids, liquids and gases are sold, manufactured, handled or processed, shall have a fire extinguisher with a minimum rating of 2A 10 BC. One (1) fire extinguisher shall be required for each three thousand (3,000) square feet or fraction thereof and at least one (1) per each floor.
(Ord 1-91, §1(19.15), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-17. Sale of defective fire extinguishers.**

No person shall sell or trade any form, type or kind of fire extinguisher which is not approved or which is not in proper working order, or the contents of which do not meet the requirements of city and state fire and building codes. However, this shall not apply to the sale or trade of fire extinguishers to any person or firm engaged in the business of selling or handling of such extinguishers or the sale or exchange of obsolete or damaged equipment for junk.
(Ord 1-91, §1(19.16), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-18. Key box.**

When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life saving or fire fighting purposes, the Fire Chief or his designee may require a key box to be installed in an accessible location. The key box shall be a type approved by the Fire Department and shall contain keys to gain necessary access as required by the Fire Department.
(Ord 1-91, §1(19.21), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-19. Fire Department signs.**

It shall be illegal for anyone to remove, mutilate or destroy any legally required sign posted by the Fire Department or required sign to be posted by the owner, manager or operator of any occupancy open to the public.
(Ord 1-91, §1(19.22), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-20. Fire alarms.**

(a) Every public building, dwelling or place of employment containing either a manual, sprinkler activated or fire detector activated alarm system shall comply with this section.

(b) New or upgraded fire alarm systems at large buildings or buildings with multiple occupancies shall provide outside strobe lights indicating the occupancy or area of fire alarm activation and if applicable, the location of the Fire Department connection. The location of these strobe lights is to be determined by the Fire Chief or designee.

(c) The Fire Department will be contacted immediately upon activation of an alarm by on-site personnel or a monitoring agency so not to cause a delay in alarm. Any monitoring agency shall be licensed or approved by either Factory Mutual (FM) or Underwriters Laboratories (U.L.). All systems shall be maintained in operable condition as specified in the International Fire Code. If the alarm or fire sprinkler system becomes inoperative for any reason, the Fire Department shall be notified and the provisions of the International Fire Code, Section 901.7 and subsequent revisions shall apply.

(d) False alarms and fees.

(1) Words and phrases defined in §12-121 are used in the same sense in this section unless a different definition is specifically provided.

(2) If the Fire Department responds to a false alarm, the party responsible for the false alarm shall pay the city a fee according to the schedule of fees kept on file with the City Clerk's Office.

(3) If the Fire Department is cancelled by the emergency communications center while responding to an alarm, the party responsible for causing the alarm may still be assessed the false alarm fee.

(4) Any fees payable to the City which are delinquent may be assessed against the property involved as a special charge for current service, without notice, pursuant to Wisconsin Statues Annotated §66.0627.

(5) The party responsible or the alarm user may appeal the assessment of a false alarm fee by submitting written documentation to the Fire

Chief or designee within ten (10) business days after notification of the assessment of a fee. The Chief or designee must inform the alarm user of the decision in writing. If the alarm user further contests the Chief or designee's decision, within ten (10) days of receiving the Chief or designee's decision, the alarm user may seek review by the Safety and Licensing Committee by submitting a written notification to the City Clerk's Office.

(Ord 1-91, §1(19.25), 1-9-91; Ord 7-95, §1, 2-1-95, Ord 65-99, §1, 9-19-99; Ord 117-06, §1, 1-1-07; Ord 23-09, §1, 1-13-09)

**Sec. 6-21. Malls.**

The mall manager or designee shall notify the Fire Department prior to any use of a mall common space for any intended use other than exiting. Examples of other uses would be trade shows, exhibitions, or public assemblies.

(Ord 1-91, §1(19.27), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-22. Violations.**

It is unlawful for any person to violate any provision of this chapter or to fail to obey any rule, regulation or order of the Fire Chief or his designees.

(Ord 1-91, §1(19.28), 1-9-91; Ord 23-09, §1, 1-13-09)

**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Secs. 6-23 – 6-30. Reserved.**

## ARTICLE II. FIRE DEPARTMENT

### Sec. 6-31. Generally.

The Fire Department shall be a paid department, consisting of such officers and members as the Common Council may establish from time to time. The Department shall be charged with providing response to fires, hazardous material spills, medical emergencies, rescue of people in distress and other dangerous conditions. The Department shall also provide for fire investigation, prevention, inspection, code compliance, and other services designed to maintain fire and life safety within the community.
(Code 1965, §4.08; Ord 23-09, §1, 1-13-09)

### Sec. 6-32. Duties of Fire Chief.

It shall be the duty of the Fire Chief to:

(1) Direct the operation of the Fire Department subject to the rules and regulations which may be adopted by the Common Council or the Police and Fire Commission;

(2) Issue and enforce such orders as in his judgment may be best for the protection of property and the extinguishing of fires;

(3) Enforce all ordinances, rules and regulations of the Common Council governing the Fire Department;

(4) Report the condition of the Fire Department at the end of each year and make further reports when ordered to do so by the Common Council or the Police and Fire Commission;

(5) Report promptly to the Police and Fire Commission any member of the Fire Department who may have disobeyed his order or violated any of the laws or rules governing the Department;

(6) Keep a record and report to the Police and Fire Commission the absence of any member of the Fire Department from fires, together with any dereliction of duty or violation of any of the rules and regulations of the Department.

In the absence or disability of the Fire Chief, the Deputy Chief shall perform his duties.
(Code 1965, §4.09, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09)

### Sec. 6-33. Wearing of name tag and badge.

The members of the Fire Department of the City, when on duty, shall wear the badge or insignia and name tag of the office on the outside of the outermost garment, conspicuously displaying the badge and name tag so the entire surface thereof may be seen, except when caution may dictate that the badge and name tag should not be exposed.
(Code 1965, §4.04; Ord 23-09, §1, 1-13-09)

### Secs. 6-34 – 6-42. Reserved.

## ARTICLE III. PERMITS

### Sec. 6-43. Required.

(a) It shall be unlawful for any person to use a building or premises or engage in any activities for which a permit is required by this code, without first having obtained such permit.

(b) Permits are required for the following:

(1) ***Floor finishing*** (required for floor finishing or surfacing operations exceeding three hundred fifty (350) square feet using Class I or Class II liquids).

(2) ***Lumber yards*** (where more than one hundred thousand (100,000) board feet of lumber is to be stored or used inside of the facility);

(3) ***Vehicle tire rebuilding plants*** (for any tire recapping or rebuilding operation);

(4) ***Magnesium use*** (for the melting, casting, heat treating machining or grinding of more than ten (10) pounds of magnesium per working day);

(5) ***Cryogenic liquids*** (for the production, storage or sale of cryogenic liquids);

(6) ***Combustible fibers*** (for the storage and handling of combustible fibers in quantities in excess of one hundred (100) cubic feet);

(7) ***Dust explosion hazard*** (for the operation of any grain elevator or bleacher, flour, starch or feed mill, malt house, wood flour manufacturing plant, or plant pulverizing aluminum, coal, cocoa magnesium, spices, sugar or other material producing dust which, if mixed with air in the proper portions becomes explosive and may be ignited by flame or spark);

(8) ***Fumigation and thermal insecticidal fogging*** (this process is not to start without a permit);

(9) ***Flammable and combustible bulk storage*** (storage in excess of fifty-five (55) gallons on permanent basis above or below ground);

(10) ***Open burning*** (where permits are required by the State or this code, §6-13);

(11) ***Tents, membrane structure, canopies*** (to operate or erect a tent or membrane structure or canopy in excess of two hundred (200) square feet unless it is used exclusively for camping or on the premises of a one- (1-) or two- (2-) family dwelling which is not covered under this Code);

(12) ***Fireworks/pyrotechnic displays*** (for the discharge of any fireworks as defined by W.S.A. §167.10. Such discharge shall conform to any state law or this code and any regulations);

(13) ***Explosives***

a. Any person conducting blasting operations in the City shall notify the Fire Department of the time and location of the blast. Notification shall be made on proper forms provided by the State. A permit shall be obtained after notification and prior to blasting;

b. Any person storing explosive materials, as defined in Wisconsin Administrative Code, International Fire Code, Section 3302.1, in the city shall obtain a permit. Such explosives shall be stored in an approved manner;

(14) ***Cellulose nitrate plastics***:

a. All retailers, jobbers and wholesalers storing or handling more than twenty-five (25) pounds of cellulose nitrate plastics shall obtain a permit from the Fire Chief;

b. A permit shall be obtained from the Fire Chief for the manufacture of articles of cellulose nitrate plastics, including the use of cellulose nitrate plastics in the manufacture or assembling of other articles;

c. Cellulose nitrate motion picture film (a person may not store, handle, or keep on hand more than twenty-five (25) pounds without obtaining a permit. A person may not sell, lease or otherwise dispose of any cellulose nitrate film to any person not having a permit issued by the Fire Chief or his designee to handle, use or display the film);

(15) ***Recyclables storage*** (any outside storage area, or warehouse used for the bulk storage of paper for sale or recycling);

(16) ***Storage tanks***

a. Removal of underground storage tanks (UST) or above ground storage tanks (AST) in either commercial or residential properties as required by Wisconsin Administrative Code, SPS 310;

b. Upgrades of underground storage tanks (UST) or above ground storage tanks (AST) flammable/combustible liquid storage systems;

(17) Installation, storage or use of liquid petroleum gases systems with a cumulative total of one hundred twenty-five (125) gallons or larger water capacity.

(Ord 17-90, 2-21-90; Ord 1-91, §1(19.26), 1-9-91; Ord 8-95, §1, 2-1-95; Ord 9-95, §§1, 2, 2-1-95, Ord 65-99, §1, 9-19-99, Ord 137-01, §1, 8-20-01; Ord 23-09, §1, 1-13-09; Ord 25-12, §1, 3-7-12)

**Sec. 6-44. Temporary special permits.**

When a temporary hazardous situation is anticipated for conditions not otherwise regulated by this code, the Fire Chief is authorized, based on applicable data, to issue a temporary special permit for the duration of the hazard.
(Ord 1-91, §1(19.26(2)), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-45. Application.**

Applications for permits shall be made to the Fire Chief and shall include the applicant's answers in full to inquiries set forth on such forms. Applications for permits shall be accompanied by such data as required by the Fire Chief and fees as may be required by his jurisdiction.
(Ord 1-91, §1(19.26(3)), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-46. Fees.**

Fees shall be established for the permits, certificates, approvals and other functions performed under this code and shall be payable to the City. Such fees shall accompany each application for such permit, approval, certificate or other fee-related code provision. The fee amount for the required permits, certificates, approvals and other functions performed under this Code shall be maintained on a schedule filed with the City Clerk.
(Ord 1-91, §1(19.26(6)), 1-9-91; Ord 108-92, §1, 10-7-92; Ord 10-95, §1, 2-1-95, Ord 65-99, §1, 9-19-99, Ord 138-01, §1, 8-20-01; Ord 23-09, §1, 1-13-09)

**Sec. 6-47. Issuance and posting.**

(a) The Fire Chief or his designee shall review all applications submitted and determine compliance with applicable provisions of this code and issue or revoke permits based on his findings as required.

(b) A copy of the permit shall be posted or otherwise readily accessible at each place of operation or carried by the permit holder as specified by the Fire Department.
(Ord 1-91, §1(19.26(4), (5)), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-48. Fee for failure to obtain permit.**

The fee for failure to obtain a permit required under §6-43 of this Code is triple the permit fee described in that section when a permit is obtained. Payment of any fee shall not relieve any person of the penalties that may be imposed for violation of this chapter.
(Ord 11-95, §1, 2-1-95; Ord 23-09, §1, 1-13-09)

**Sec. 6-49. Non-resident fees for Fire Department services.**

When the Fire Department is called upon to extinguish a vehicle fire or extricate a person, and where the subject vehicle is registered to an owner with a permanent address located outside of the Appleton city limits, the registered owner shall pay a service fee to the City, the amount of which shall be on file with the City Clerk.
(Ord 17-06, §1, 2-21-06; Ord 23-09, §1, 1-13-09)

**Sec. 6-50. Recovery of costs associated with technical rescue responses.**

(a) ***Structural collapse reimbursement for costs of emergency services response.*** Emergency service response includes, but is not limited to, fire service, emergency medical service and law enforcement. Any person or property owner who causes damage to a structure resulting in the need for placement by the department of shoring/stabilizing systems to prevent further damage to life or property and on-going safety to the public, may be responsible for reimbursement to the responding agencies for the actual and necessary expenses incurred in carrying out their duties under this article. Actual and necessary expenses may include, but not be limited to, replacement of equipment or materials necessary for the construction of shoring or stabilizing systems, maintenance of the equipment specific to the incident, costs incurred in the procurement and use of specialized equipment specific to the incident, and charges associated with personnel and equipment necessary for the construction and placement of such shoring and stabilizing systems.

(b) ***Appeal.*** A person or property owner has the right to appeal the assessment of charges for an emergency service response. Any person or property owner appealing the assessment of charges shall file a written objection with the Fire Chief within thirty (30) days of receiving the bill.

Upon receipt of the written objection, the matter shall be placed on the Agenda for the Safety and Licensing Committee at its next regularly scheduled meeting. The Safety and Licensing Committee shall make a recommendation to the Common Council, which shall grant or deny the request.
(Ord 142-11, §1, 6-7-11)

**Secs. 6-51 – 6-55. Reserved.**

## ARTICLE IV. STANDARDS AND REQUIREMENTS

**Sec. 6-56. Adoption of codes and standards.**

(a) The state codes listed in this section are hereby adopted by reference and made a part of the City Fire Prevention Code. For the purposes of this section, these provisions are adopted to enable the Fire Department to note any violations of such codes and to report those violations to the appropriate community service inspectors. The Fire Inspectors shall have the authority to cite such violations on fire inspections.

(1) General Hazard on Fire Prevention, Wisconsin Administrative Code, SPS chapter 314;

(2) General Orders on Existing Buildings, Wisconsin Administrative Code, SPS chapters 375 to 379;

(3) Wisconsin Administrative Code, Wisconsin State Electrical Code, SPS Chapter 316;

(4) Wisconsin Administrative Code, Wisconsin Commercial Building Code, SPS Chapters 361 - 366;

(5) Elevator Code, Wisconsin Administrative Code, SPS chapter 318;

(6) Existing Building Code, Wisconsin Administrative Code, SPS chapter 370;

(7) Flammable and Combustible Liquids Code, Wisconsin Administrative Code, SPS 310.

Overall enforcement responsibility is equally shared by the Building Inspection Division and the Fire Department. Primary responsibility for particular sections of the above provisions shall be as indicated in the Wisconsin Administrative Code.

(b) The International Fire Code 2009 Edition, hereinafter "IFC" is hereby adopted as though fully set forth herein, with the following exceptions:

(1) Chapter 1 of the IFC is not included as part of the adoption of the IFC, nor is Chapter 34.

(2) The Appendices A is not included as part of the adoption of the IFC.

(c) The following editions of the National Fire Protection Codes and Standards are hereby adopted by reference and made part of the City Fire Prevention Code

with the same force and effect as though set forth herein in full:

NFPA 11, Low Expansion Foam, 2002 Edition;

NFPA 12, Carbon Dioxide Extinguishing Systems, 2000 Edition;

NFPA 12A, Halon 1301 Fire Extinguishing Systems, 2004 Edition;

NFPA 13, Installation of Sprinkler Systems, 2007 Edition;

NFPA 13D, Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, 2007 Edition;

NFPA 13R, Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height, 2007 Edition;

NFPA 14, Standpipe Private Hydrant and Hose Systems, 2007 Edition;

NFPA 15, Water Spray Fixed Systems, 2007 Edition;

NFPA 16, Deluge Foam-Water Sprinkler Systems and Foam-Water Spray Systems, 2003 Edition;

NFPA 17, Dry Chemical Extinguishing Systems, 2002 Edition;

NFPA 17A, Wet Chemical Extinguishing Systems, 2002 Edition;

NFPA 20, Installation of Stationary Pumps, 2007 Edition;

NFPA 24, Private Fire Service Mains, 2007 Edition;

NFPA 25, Water Based Fire Protection Systems, 2002 Edition;

NFPA 30, Flammable and Combustible Liquids Code, 2003 Edition;

NFPA 30A, Motor Fuel Dispensing Facilities, 2003 Edition;

NFPA 30B, Aerosol Products, Manufacture and Storage, 2007 Edition;

NFPA 31, Installation of Oil Burning Equipment, 2006 Edition;

NFPA 33, Spray Application Using Flammable or Combustible Materials, 2007 Edition;

NFPA 34, Dipping and Coating Processes Using Flammable or Combustible Liquids, 2007 Edition;

NFPA 50, Bulk Oxygen Systems at Consumer Sites, 2001 Edition;

NFPA 50A, Gaseous Hydrogen Systems at Consumer Sites, 1999 Edition;

NFPA 50B, Liquefied Hydrogen Systems at Consumer Sites, 1999 Edition;

NFPA 51B, Welding, Cutting, Other Hot Work, 2003 Edition;

NFPA 54, National Fuel Gas Code, 2006 Edition;

NFPA 55, Compressed and Liquefied Gases in Portable Cylinders, 2003 Edition;

NFPA 69, Explosion Prevention Systems, 2002 Edition;

NFPA 72, National Fire Alarm Code, 2002 Edition;

NFPA 80, Fire Doors and Fire Windows, 2007 Edition;

NFPA 92A, Smoke Control Systems, 2006 Edition;

NFPA 96, Ventilation Control and Fire Protection of Commercial Cooking Operations, 2001 Edition;

NFPA 105, Standard for the Installation of Smoke-Control Door Assemblies, 2007 Edition;

NFPA 204, Smoke and Heat Venting, 2002 Edition;

NFPA 385, Tank Vehicles for Flammable and Combustible Liquids, 2000 Edition;

NFPA 430, Liquid and Solid Oxidizers, 2000 Edition;

NFPA 490, Storage of Ammonium Nitrate, 2002 Edition;

NFPA 654, Prevention of Fire and Dust Explosions from Manufacturing Combustible Particulate Solids, 2006 Edition;

NFPA 1123, Fireworks Display, 2006 Edition;

NFPA 1124, Fireworks and Pyrotechnic Articles, 2006 Edition;

NFPA 1126, Use of Pyrotechnics before a Proximate Audience, 2006 Edition;

NFPA 1221, Communications, Emergency Services, 2007 Edition;

NFPA 1961, Fire Hose, 2002 Edition;

NFPA 1962, Standard for the Inspection, Care, and Use of Fire Hose, Couplings and Nozzles; and the Service Testing of Fire Hose, 2003 Edition;

NFPA 1963, Fire Hose Connections, 2003 Edition;

NFPA 2001, Clean Agent Fire Extinguishing Systems, 2004 Edition;

(c) Any fire prevention issue not herein addressed by code or adopted standards will be addressed on the basis of current accepted National Fire Protection Association Standards.

(Ord 1-91, §1(19.02), 1-9-91; Ord 12-95, §1, 2-1-95, Ord 65-99, §1, 9-19-99, Ord 181-01, §1, 10-22-01, Ord 96-02, §1, 6-25-02; Ord 23-09, §1, 1-13-09; Ord 124-11, §1, 4-26-11; Ord 25-12, §1, 3-7-12)

**Cross reference(s)**--Buildings and building regulations, Chapter 4.

**Sec. 6-57. Automatic sprinkler systems.**

(a) ***Intent of section.*** The intent of this section is to provide a means for the automatic extinguishment of fires in buildings or parts of buildings which because of their size, construction or occupancy or lack of suitable protection equipment, constitute a special fire hazard to life or property and an excessive burden upon the fire extinguishing facilities of the Fire Department.

(b) ***Definitions.*** For the purpose of this section, the following definitions shall be applicable:

***Approved*** shall mean that the material, workmanship and installation of the sprinkler system complies with the regulations as set down in the National Fire Protection Association standards for the installation of automatic sprinkler systems in effect at the date of installation and approved by Fire Chief.

***Area*** shall mean the gross ground floor area of a building or when a building is divided by approved firewalls, each section so divided shall be considered an area.

***Authority having jurisdiction*** shall be the Fire Chief or whomever the Chief designates to enforce this chapter, the laws of the state pertaining to the prevention of fires and public safety and approving equipment, installation or procedure as outlined in National Fire Protection Association Codes and Standards.

***Automatic sprinkler equipment*** shall mean a system of water supply pipes and orifices to apply water to a fire when activated by an automatic, manual or remote control device.

***Fire-resistive construction*** shall mean a building is of fire resistive construction if all the walls, partitions, piers, columns, floors, ceilings, roof and stairs are built of noncombustible materials as specified in Wisconsin Commercial Building Code.

***Housing for the elderly*** shall mean a residential occupancy building where the occupancy is limited to primarily elderly people meeting specific age criteria as specified by the financing or owning agency.

***Institutional buildings*** shall mean and include convents, monasteries, children's homes, homes for the aged, nursing homes, convalescent homes, asylums, mental hospitals and jails.

(c) ***Buildings and areas where required.*** Every building constructed or structurally altered shall have an approved automatic sprinkler system installed and maintained when occupied in whole or part for the following purposes:

(1) As defined in Wisconsin Commercial Building Code, Factory Group F, Business Group B, and Mercantile Group M buildings if:

a. Over twelve thousand (12,000) square feet in area on one (1) floor.

b. Over one (1) story in height and exceeding nine thousand (9,000) square feet per floor.

c. Over three (3) stories.

(2) As defined in Wisconsin Commercial Building Code, Storage Group S garages (storage or repair), throughout garages if over ten thousand (10,000) square feet in area.

(3) Hotels and motels:

a. In buildings of one (1) story in height, sprinklers are to be installed to meet requirements of Standard 13 of the National Fire Protection Association Appendix in cellars, store rooms, work shops, hallways, stairways. Sprinklers installed in corridors shall be spaced up to the maximum of fifteen (15) feet along the corridor, with one (1) sprinkler opposite the center of any door or pair of adjacent doors opening onto the corridor, and with an additional sprinkler spaced inside each adjacent room above the door opening. When the sprinkler in the adjacent room provides full protection for that space, an additional sprinkler is not required in the corridor adjacent to the door.

b. Sprinklers are to be installed throughout all hotels and motels of two (2) stories or more in height.

(4) Multifamily dwellings of three (3) units or more exceeding four thousand eight hundred (4,800) square feet per floor and dormitories, except housing for the elderly, shall be protected by one (1) of the following automatic sprinkler systems:

a. Option #1 shall include the protection of the areas within the living unit by an automatic fire sprinkler system complying with Standard 13D of the National Fire Protection Association and the protection of windowless floor levels and storage areas as specified in Wisconsin Commercial Building Code, by an automatic fire sprinkler system with Standard 13 of the National Fire Protection Association. All sprinkler heads used in Option #1 shall be of the residential type.

b. Option #2 shall include the protection of all areas within the building by an automatic fire sprinkler system complying with Standard 13 of the National Fire Protection Association and equipped with residential type sprinkler heads in the living units.

(5) Theaters and assembly halls:

a. In every theater and assembly hall where a proscenium curtain is required, automatic sprinklers shall be provided under the stage, under the stage roof and in the dressing rooms but not in the automatic smoke outlet.

b. Automatic sprinklers are to be installed throughout all such buildings of nonfire resistive construction if such place of assembly is located above the first floor, whether or not there is a stage.

c. Automatic sprinklers are to be installed throughout all basement areas used for assembly and exiting hallways from such assembly area.

(6) Educational Group E occupancies:

a. In basements, kitchens, shops and other spaces where combustibles are stored or handled.

b. In other than fire resistive buildings.

1. Ten thousand (10,000) square feet or over.

2. Two (2) stories and up exceeding six thousand (6,000) square feet in area.

3. Three (3) stories and up in height.

(d) ***Application to existing buildings***. Where the Fire Chief finds that by reason of construction or highly combustible occupancy, existing buildings constitute a severe fire hazard to its occupants or to adjoining property, the provisions of this section will apply.

(e) ***System types and approval of plans***. Approved automatic sprinkler equipment shall be installed, connected to an adequate water supply with sprinkler heads, valves and auxiliary equipment of standard types suitable for the individual building to be protected as determined by adopted Standard 13, of the National Fire Prevention Association. Automatic sprinkler systems shall be designed with a minimum five (5) psi water supply safety factor. No automatic sprinkler equipment shall be installed or altered in a building until plans have been submitted to fire prevention and reviewed. Four (4) copies of plans shall be submitted approved plans stamped "Conditionally Approved" and three (3) copies shall be returned to owner and the other kept on file at the Fire Department.

(f) ***Alternative materials and methods.***

(1) The Fire Chief may modify any of the provisions of this section upon application in writing by the owner or lessee or his duly authorized representative where there are practical difficulties in the way of carrying

out the strict letter of this section, provided that the spirit of this section shall be complied with, public safety secured and substantial justice done. The particulars of such modification shall be granted or allowed and the decision of the Fire Chief shall be entered upon the records of the Department and a signed copy shall be furnished the applicant.

(2) The Fire Chief, on notice to the Inspections Supervisor, may approve any alternate material or method, provided he finds that the proposed design, use or operation satisfactorily complies with the intent of this code and that the material, method of work performance or operation is, for the purpose intended at least the equivalent of that prescribed in this section in quality, strength, effectiveness, fire resistance, durability and safety, provided, however, that any approval under the authority herein contained shall be subject to the approval of the building official whenever the alternate material or method involves matters regulated by the Wisconsin Administrative Code.

(3) The Fire Chief may require tests as proof of compliance with the intent of this section, such tests to be made by an approved agency at the expense of the person requesting approval of the alternate material or method of construction.

(4) If technical expertise is unavailable within the Department because of new technology, process, products, facilities, materials and uses attending the design, operation or use of a building or premises subject to the inspection of the Department, the Fire Chief may require the owner or the person in possession or control of the building or premises to provide without charge to the Department, a technical opinion and report. The opinion and report shall be prepared by a qualified engineer, specialist, laboratory or fire-safety organization acceptable to the Fire Chief and the owner and shall analyze the fire safety properties of the design, operation or use of the building or premises and the facilities and appurtenances situated thereon, and prescribe the necessary recommended changes.

(5) Buildings having an area exceeding the area limitations in this code may be constructed without complete fire sprinkler systems provided the building is divided into areas less than the specified area limitations by at least a two- (2-) hour rated fire barrier shall extend from the foundation to the underside of the roof deck. Structural framing members may continue through or over the separation wall provided the framing and supporting elements are of noncombustible or one- (1-) hour fire resistive combustible construction. All openings in the separation wall shall be protected by fire-resistive door assemblies.

(g) ***Inspection.*** Every automatic sprinkler system required under this section shall be tested and inspected upon installation, according to the National Fire Protection Association Standards in effect at time of installation.

(h) ***Maintenance.***

(1) The owner or occupant of a building containing the required automatic sprinkler system shall maintain the system in an operative condition at all times. The occupant of the building shall notify the Fire Department prior to interrupting this system for any reason or at the time it is withdrawn or its service interrupted or curtailed. Testing and maintenance of such systems shall be performed according to Standard 25, of the National Fire Protection Association. Copies of all tests results shall be furnished to the Fire Chief of the Fire Department.

(i) ***Water.*** Where an automatic sprinkler system is required, the supply shall be from the city water supply. Testing of the water supply shall be conducted by using the two (2) hydrants closest to the property being sprinkled. Tests over two (2) years old will not be accepted unless approved by the Fire Chief after taking into consideration growth, size and changes in the general area. The sprinkler contractor will take all readings with the Director of Public Works approval and assistance in hydrant use. The Fire Chief will be informed of all testing twenty-four (24) hours in advance and be given an opportunity to observe testing.
(Code 1965, §19.10; Ord 1-91, §1(19.10), 1-9-91; Ord 176-93, §1, 10-19-93; Ord 13-95, §1, 2-1-95; Ord 14-95, §1, 2-1-95; Ord 120-96. §1, 12-18-96, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09)

**Sec. 6-58. Reserved.**

**Sec. 6-59. Welding and cutting operations.**

In addition to the International Fire Code, all welding and cutting operations shall also comply with this code.

(a) Before welding or cutting operations have begun in areas not designed or approved for that purpose, specific authorization shall be obtained from the owner of the premises or his duly authorized agent.

(b) When welding or cutting operations are performed above or within thirty-five (35) feet of construction or material exposed to the operation or within thirty-five (35) feet of floor, ceiling or wall openings so exposed:

(1) Such construction or combustible material shall be protected by noncombustible shields or covers from possible sparks, hot metal or oxide;

(2) Such floor, ceiling or wall shall be protected by noncombustible shields or covers.

(c) A firewatcher shall be provided to watch the fire, make use of portable fire extinguishers or fire hose and perform similar fire prevention and protection duties. The firewatcher shall remain on the job at least thirty (30) minutes after the welding or cutting operation has been completed to insure that no fire exists. A signed inspection report attesting to that fact shall be filed and available for inspection by the Fire Marshal.

(d) One (1) or more portable fire extinguishers of approved type and size shall be kept at the location where welding or cutting is to be done.

(e) Welding or cutting shall not be done in or near rooms or locations where flammable gases, liquids or vapors, lint, dust or loose combustible stocks are present when sparks or hot metal from the welding operation may cause ignition or explosion of such material.

(f) Except as otherwise provided in this section, welding or cutting shall not be performed on containers and equipment which contain or have contained flammable liquids, gases or solids until these containers and equipment have been thoroughly cleaned or made inert or purged.

(g) Hot tapping may be permitted on tanks or pipelines by the owner-operator thereof.

(h) Sprinkler protection shall not be shut off while welding or cutting work is being performed. When welding or cutting is being done close to automatic heads, sheet asbestos or damp cloth guards may be used to shield the individual heads but shall be removed when the work is completed.
(Code 1965, §19.08; Ord 1-91, §1(19.08), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-60. Outside storage of recyclables and building material.**

Scrap or old lumber and old building material shall not be stored or kept in a residential area. Storage of scrap lumber or other materials in other than residential areas shall be handled to conform to recognized safe practices for lumber yard storage of IFC. Recyclables stored outside shall conform to IFC.
(Code 1965, §19.09; Ord 1-91, §1(19.09), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-61. Apartment buildings.**

All apartment buildings containing three (3) or more dwelling units shall meet the following fire prevention requirements:

(1) Interior fire alarm systems required by Wisconsin Commercial Building Code, shall be installed according to the State Electrical Code.

(2) a. Fire alarm systems in accordance with this section shall be installed in all apartment buildings containing three (3) or more dwelling units with common areas constructed prior to April 1, 1995.

b. In all apartment buildings where fire alarms are not required by State, but are required by the City, alarms may be installed in accordance with the National Electrical Code, Article 760 Fire Protection Signaling Systems. Fire alarm break stations shall be installed at all required exits. Any apartments or dwelling units that are connected to a business occupancy must comply with §4-342 of this Code.

(3) All alarm break stations for interior alarms shall be identified with a sign stating that the Fire Department must be called when the break station is activated. Such signs shall be predominantly red in color and be permanently attached above the break station, be made of durable material and shall carry the 911 emergency number.

(4) Exit lights.

a. Every required exit from each floor, other than those within private living

units, shall be indicated by an approved illuminated red exit sign bearing the word "Exit" or "Out" in plain letters not less than five (5) inches in height.

b. All wiring for exit signs shall conform to the State Electrical Code.

(5) Smoke and heat detection devices.

a. Smoke detectors, combustion detectors or heat rise detectors shall be installed in boiler rooms and laundry areas and shall be connected to the local alarm system. Such detection devices shall be of a type approved by a recognized testing agency acceptable to the Fire Department and may be wired according to the National Electrical Code or the State Electrical Code.

b. At least one (1) smoke detector installed at the head of every open stairway and at the door leading to every enclosed stairs on each floor level including the basement. One (1) detector also must be installed in each sleeping area. These detection devices are not required to be connected to the local alarm system.

(6) Attic spaces shall be divided into area not in excess of three thousand (3,000) square feet and areas shall be divided in partitions having a one- (1-) hour fire resistive rating or better. Each area so divided shall be accessible from the living area below by an access panel of construction equal to the ceiling of the living area.

(7) Fire extinguishers of FM (Factory Mutual) or UL (Underwriters Laboratory) approved type having at least a 2A 10 BC rating shall be provided. One (1) extinguisher shall be provided for each three thousand (3,000) square feet of floor area or portion thereof and there shall be at least one (1) extinguisher per floor and one (1) in the basement. Extinguishers shall be located so that all floor area is within seventy-five (75) feet of an extinguisher measured along the hallway. They shall be hung on hangers or set on brackets or shelves so that the top of the extinguishers are not more than five (5) feet above the floor. All extinguishers shall be charged and tested in accordance with the instructions of the manufacturer.

(8) Apartment buildings shall be modified to comply with (2), (3) and (5) above.

(Code 1965, §19.11; Ord 1-91, §1(19.11), 1-9-91, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09)

**Sec. 6-62. Smoke detectors.**

(a) ***Definitions***. For purposes of this section, the following definitions shall apply:

***Dwelling*** shall mean a structure or part of a structure providing complete, independent living facilities for one (1) or more persons, including permanent provisions for sleeping, eating, cooking and sanitation.

***Sleeping area*** shall mean the area of the unit in which the bedrooms or sleeping rooms are located. Bedrooms or sleeping rooms separated by another use area such as a kitchen or living room are separate sleeping areas, but bedrooms or sleeping rooms separated by a bathroom are not separate sleeping areas.

***Smoke detector*** shall mean a device which detects particles or products of combustion other than heat.

(b) ***Buildings affected***. Any structure containing one (1) or more dwelling units containing sleeping areas.

(c) ***Location and installation of smoke detectors.***

(1) Each dwelling unit shall be provided with a minimum of one (1) approved detector installed in a manner and location consistent with its listing. The Fire Department Fire Prevention Division can be contacted for recommendations when an owner is concerned about the installation and number of detectors.

(2) All existing dwelling units must meet the requirement of the State of Wisconsin Uniform Dwelling Code, Wisconsin Administrative Code, SPS 321.09 and 328.01 Smoke Detectors. Each dwelling unit shall be provided with a minimum of one (1) approved, listed and labeled smoke detector sensing visible or invisible particles of combustion, installed in a manner and location consistent with its listing.

(d) ***Approval***. A smoke or heat detector required under this section shall be approved by Underwriter's Laboratories, Factory Mutual or any other comparable testing firm.

(e) ***Department inspection and order***. Inspection of new construction will be carried out by the Division of Inspections at its final inspection.

(f) ***Conveyance of property***. No person shall convey any real property which includes a dwelling unit to another unless there are installed in the dwelling unit approved smoke detectors in accordance with (d) above. Any purchaser of real property found not to be in compliance with this subsection may bring an action in circuit court for damages. A violation of the provisions of this subsection shall not affect the conveyance of title or possession to the affected property.
(Code 1965, §19.12; Ord 1-91, §1(19.12), 1-9-91; Ord 176-93, §1, 10-19-93; Ord 120-96, §1, 12-18-96, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09; Ord 25-12, §1, 3-7-12)

**Sec. 6-63. Discharge of hazardous materials.**

(a) ***Prohibited discharges***. No person shall discharge or cause to be discharged, leaked, leached or spilled upon any public or private street, alley, public or private property, or onto the ground, surface waters, subsurface waters, or aquifers, or within the city, except those areas specifically licensed for waste disposal or landfill activities and to receive such material, any explosive, flammable or combustible solid, liquid or gas, any radioactive material at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment.

(b) ***Spill notification.*** Immediately upon discovery of a discharge involving any explosive, flammable or combustible solid, liquid or gas, any radioactive material at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment the property owner, equipment operator, or discovering person shall notify the Appleton Fire Department of the discharge of a hazardous material.

(c) ***Responsibility for containment, cleanup and restoration.*** Any person in violation of (a) above shall, upon direction of any Fire Department officer, begin immediate actions to contain, cleanup and remove to an approved repository the offending material(s) and restore the site to its original condition, with the offending person being responsible for all expenses incurred. If any person fails to engage the necessary men and equipment to comply or to complete the requirements of this section, the office of the Fire Chief may order the required actions to be taken by public or private sources and allow the recovery of any and all costs incurred by the City as required by (d) below.

(d) ***Reimbursement for costs of emergency services response.*** Emergency service response includes, but is not limited to, fire service, emergency medical service and law enforcement. A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall be responsible for reimbursement to the responding agencies for the actual and necessary expenses incurred in carrying out their duties under this article. Actual and necessary expenses may include, but not be limited to, replacement of equipment damaged by the hazardous material, cleaning, decontamination and maintenance of the equipment specific to the incident, costs incurred in the procurement and use of specialized equipment specific to the incident, specific laboratory expenses incurred in the recognition and identification of hazardous substances in the evaluation of response, decontamination, cleanup and medical surveillance, and incurred costs in future medical surveillance of response personnel as required by the responding agency's medical advisor.

(e) ***Site access.*** Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to Fire Department officers and staff and to Police Department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.

(f) ***Public protection.*** If any prohibited discharge occurs that threatens the life, safety or health of the public at, near or around the site of a prohibited discharge, and the situation is so critical that immediate steps must be taken to protect life and limb, the Fire Chief, his assistant or the senior police official on the scene of the emergency may order an evacuation of the area or take other appropriate steps for a period of time until the Common Council can take appropriate action.

(g) ***Enforcement.*** The Fire Chief, as well as the police officers, shall have authority to issue citations or complaints under this section.

(h) ***Civil liability.*** Any person in violation of this section shall be liable to the City for any expenses incurred by the City or loss or damage sustained by the City by reason of such violations.
(Code 1965, §19.13; Ord 1-91, §1(19.13), 1-9-91; Ord 34-92, §1, 3-18-92, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09)
**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 6-64. Miscellaneous standards.**

(a) Interior finishes, decorative materials and furnishings shall comply with International Fire Code, Chapter 8.

(b) Flame retardant solutions, processes and applicators must be approved by the Fire Chief.
(Ord 1-91, §1(Appendix), 1-9-91; Ord 16-95, §1, 2-1-95,

Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09)

**Sec. 6-65. Flame-spread classification.**

(a) Interior wall and ceiling finishes shall be classified in accordance with ASTM E 84, and shall comply with Wisconsin Commercial Building Code, Section 803.

(b) Interior floor finish and floor covering materials shall be classified in accordance with NFPA 253 and shall meet the requirements of Wisconsin Commercial Building Code, Section 804.
(Ord 1-91, §1(Appendix), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-66. Fireworks and pyrotechnic devices.**

(a) Definition: For the purpose of this section the following definition shall be applicable:

"Fireworks shall include all items under W.S.A. sec. 167.10(1) (intro), (e), (f), (i), (j), (k), (l), (m) and (n)."

(b) The provisions in this section shall apply to places where fireworks are stored or handled. Such premises shall be adequately equipped with fire extinguisher approved by the Fire Chief. Smoking is prohibited where fireworks are stored or handled.

(c) Every wholesaler, dealer or jobber keeping, storing, or handling fireworks of any description within the City shall notify the Fire Chief immediately upon receipt of such fireworks for the removal thereof from one (1) location to another and shall indicate the location where such fireworks are stored. No such fireworks shall be stored in any building used for dwelling purposes or in any building situated within fifty (50) feet of any building used for dwelling purposes, or in any place of public assemblage, or within fifty (50) feet of any gasoline pump, gasoline filling station, or gasoline bulk station, or in any building in which gasoline or flammable liquid is sold in quantities in excess of one (1) gallon. The storage buildings for fireworks shall conform to Standard 1124 of the National Fire Protection Association Standards and Codes.

(d) This section shall prohibit the use of any pyrotechnic device indoors of an occupancy without a permit from the Fire Chief. Such permits will not be issued for any event in an unsprinkled occupancy. Permit applications will be made in writing seven (7) days in advance of the date of the display.

(e) The use of the pyrotechnic device shall be handled by a competent adult operator and shall be of such composition, character and be located, discharged or fired as in the opinion of the Fire Chief shall not be hazardous to property or endanger any persons.

(f) The display, storage and discharge of fireworks shall be regulated by and comply with all IFC, NFPA, state and local codes and nationally recognized standards.

(g) The outdoor use of pyrotechnic devices shall be regulated by §10-5 of this Code and W.S.A. §167.10.
(Ord 1-91, §1(19.18), 1-9-91; Ord 34-92, §2, 3-18-92; Ord 17-95, §1, 2-1-95, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09)

**Sec. 6-67. Posted occupant load.**

(a) Every room or space that is an assembly occupancy shall comply with International Fire Code.

(b) The number of persons in any building or portion thereof shall not exceed the amount determined as specified in the State building code, as surveyed by the Supervisor of Inspections, the Fire Chief, or his designee.

(c) No person shall permit overcrowding or admittance of any person beyond the approved capacity of any place of public assemblage as specified above. The Fire Chief, upon finding any overcrowding conditions or obstruction in aisles, passageways or other means of egress or upon finding any condition which constitutes a serious menace to life, shall cause the performance, presentation, spectacle or entertainment to be stopped with the assistance of the Police Department until such condition or obstruction is corrected. The manager or person in charge of the premises shall be responsible for preventing overcrowding.
(Ord 1-91, §1(19.19), 1-9-91; Ord 174-93, §1, 10-19-93; Ord 120-96, §1, 12-18-96, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09)

**Sec. 6-68. Fire apparatus access roads.**

(a) ***Definitions.*** For the purpose of this section, the following definitions shall be applicable:

***Fire apparatus access road*** means a hard surface designated and maintained to support the imposed loads of fire apparatus and shall be maintained so as to provide all-weather driving capabilities and have a minimum of thirteen (13) feet six (6) inches in vertical clearance.

***Street*** means any legally established public thoroughfare or all weather hard surface area thirty (30) feet or more in width unless otherwise approved by the Fire Department, whether designated or not by name such as avenue, boulevard, circle, court, drive, lane, place, road or way within fifty (50) feet of the building and maintained so as to provide all-weather driving capabilities and have a minimum of thirteen (13) feet six (6) inches in vertical clearance.

(b) Fire apparatus access roads shall be provided according to the International Fire Code and this ordinance.

(c) Multi-family residential projects having more than fifty (50) dwelling units shall be provided with a minimum two (2) separate and approved streets or approved Fire Department access roads.

(d) When conditions prevent the installation of an approved fire apparatus access road, the Fire Chief may permit the installation of a fire protection system in lieu of a road, provided the system or systems are not otherwise required by this or any other code.
(Ord 1-91, §1(19.20), 1-9-91, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09)

**Sec. 6-69. Atrium furnishings.**

(a) Atriums are defined as a floor opening two (2) or more stories that are covered at the top of the series of openings and is used for purposes other than an enclosed stairway, elevator hoist way or utility shaft used for plumbing, electrical, air conditioning or communication facilities.

(b) All decorative materials in atriums shall be noncombustible or shall be flame retardant treated and be so maintained. Devices generating an open flame shall be approved by the Fire Chief prior to use.
(Ord 1-91, §1(19.23), 1-9-91; Ord 23-09, §1, 1-13-09)

**Sec. 6-70. Working plans of suppression/detection and control systems.**

(a) Working plans of all fire suppression, detection and control systems shall be submitted to the Fire Department Prevention Division in duplicate, before any equipment is installed or remodeled. Deviation from approved plans will require permission of the authority having jurisdiction.

(b) Fire protection system plans shall be drawn to an indicated scale of not less than 1/8" on sheets of uniform size with a plan of each floor or section. Plans must be easily duplicated and shall show all pertinent information as required by NFPA standards for plan submittals.
(Ord 1-91, §1(19.24), 1-9-91; Ord 126-01, §1, 7-18-01; Ord 23-09, §1, 1-13-09)

**Sec. 6-71. Plan review fee structure and requirements.**

A schedule of plan review fees shall be maintained in the City Clerk's Office. This schedule specifies the fees for plan examination and approval for projects located within the city of Appleton.

Note: If the property is subject to state plan review, the additional fee required under Wisconsin Administrative Code, SPS Table 302.31-3 will be added to the appropriate municipal fee.

(1) ***Miscellaneous fee.*** The miscellaneous fee shall be assessed for submission of plans for non-water based fire extinguishing systems, spray booth fire suppression systems and standpipe and hose systems. The miscellaneous fee will apply to such systems that are submitted separately from the automatic fire sprinkler system and/or fire alarm system. Where the plans for the automatic fire sprinkler systems and/or fire alarm systems are submitted with, for example, the kitchen exhaust hood fire suppression system plans, the fees will be based on the square footage of the project and no miscellaneous fee will be charged for review of plans of non-water based extinguishing systems.

(2) ***Multiple identical buildings.*** In order to qualify for the multiple identical building fee, all buildings included in the project must be identical, and plans for such buildings must be submitted at the same time. The fee for submittal of plans for the first building shall be determined in accordance with the fee schedule on file with the City Clerk's Office. The fee for each remaining identical building shall be twenty-five percent (25%) of the appropriate fee.

(3) ***Shell buildings.*** When an application is submitted for a property where only the shell of the property has been completed, the fee will be calculated at fifty percent (50%) of the appropriate fee set forth in the fee schedule on file with the City Clerk's Office on the basis of the total gross area of the building. When an application is submitted for the construction of the interior of a building where the shell has been previously granted a permit, the fee for the interior construction shall be calculated at fifty percent (50%) of the total gross area as set forth in the fee schedule on file with the City Clerk's Office. Should the interior be completed in sections, the fee shall be calculated at the percentage of the area being completed, cumulative interior fee not to exceed fifty percent (50%) of the total gross area as set forth in the fee schedule on file with the City Clerk's Office.

(4) ***Fire doors/shutters.*** Fire door/shutter plan review and inspection shall be assessed an

initial minimum fee as indicated on the fee schedule for the first fire door/shutter and as indicated on the fee schedule for each additional door/shutter. This fee does not apply to fire doors/shutters already reviewed as part of an ongoing project.

(5) ***Re-submission fee.*** A fee shall be assessed for review of plans submitted following denial of plan approval.

(6) ***Re-inspection fee.*** The inspection of work performed under an approved plan is included in the fee for plan reviews. This fee does not include any re-inspections required because the inspected work failed to pass inspection. A re-inspection fee equaling twenty-five percent (25%) of the original plan review fee, fifty dollars ($50.00) minimum, shall be assessed due to system failure during the initial inspection.

(7) ***Fee for initiation without a permit.*** Penalty for failure to obtain a permit before starting work shall automatically double the applicable fees, and all work shall cease until the proper permits have been attained.

(Ord 126-01, §1, 7-18-01; Ord 23-09, §1, 1-13-09; Ord 25-12, §1, 3-7-12)

**Sec. 6-72. Maintenance, approval and registration of installed fire protection systems.**

(a) ***Maintenance.*** All sprinkler systems, fire hydrant systems, standpipe systems, fire alarm systems, portable fire extinguishers, smoke and heat ventilators, smoke-removal systems and other fire protection or extinguishing systems or appliances shall be maintained in an operative condition at all times and shall be replaced or repaired where defective. Fire-protection or extinguishing systems coverage, spacing and specifications shall be maintained in accordance with recognized standards at all times. Such systems shall be extended, altered or augmented as necessary to maintain and continue protection whenever any building so equipped is altered, remodeled, added to or changes occupancy hazard. All additional, repairs, alterations and servicing shall be in accordance with recognized standards and copies of such work sent to Fire Prevention of the Fire Department.

(b) ***Approvals.*** All fire extinguishing systems, including automatic sprinkler systems, classes I, II, III combined stand pipes, Halon systems, and other special automatic extinguishing systems and basement pipe inlets, shall be approved in accordance with §6-71 and shall be subject to periodic tests as may be required. A copy of all test results of the above systems must be provided to the Fire Chief or his designee upon completion of the testing. The location of all Fire Department hose connections shall be approved by the Fire Chief or his designee.

(c) (1) ***Registration.*** All installers of fire protection components, including, but not limited to, agencies monitoring alarm integrity, shall register with the Fire Department pertinent contact information including, but not limited to, address, phone number and name of responsible person. Registry information shall be updated with AFD within ten (10) days of any change to information previously provided.

(2) A fee may be assessed to any registered installer and/or monitoring agent deemed responsible for causing a false alarm. Said fee will be billed to the responsible party, if not the alarm user, and will be that amount indicated in the false alarm fee schedule. Failure to pay fees could result in failure to obtain permit(s) for future work. An appeal of a false alarm assessment can be made by writing the Fire Chief or his designee within ten (10) business days after notification of the fee. Contesting the Chief's decision involves a review by the Safety and Licensing Committee by submitting a written notification to the City Clerk's Office.

(Ord 65-99, §1, 9-19-99, Ord 126-01, §1, 7-18-01; Ord 23-09, §1, 1-13-09)

**Sec. 6-73. Notification of special public assembly events.**

(a) For the purpose of this section, public assembly is defined as an event which exceeds one hundred (100) people.

(b) Except as provided in (d), notification must be provided to the Department within five (5) business days prior to the holding of special public assembly events which involves the use of buildings or spaces not approved for public assembly in accordance with the Wisconsin State Building Code and the IFC.

(c) Except as provided in (d), notification must be provided to the Department within five (5) business days prior to the holding of special public assembly events which involves the placement of temporary seating in an area not otherwise approved for such seating.

(d) Notification is not required if a plan indicating occupancy capacity, seating arrangements, location and width of exit ways and aisles is submitted to the Fire Department and pre-approved by the Fire Chief or his designee.

Note: Building owners may pre-approve a building or space within the building for special events by submitting an approved plan. This exception allows for multiple special events.
(Ord 65-99, §1, 9-19-99, Ord 126-01, §1, 7-18-01; Ord 23-09, §1, 1-13-09)

**Sec. 6-74. Fire division walls and occupancy separation wall identification.**

Building owners shall identify fire division walls and occupancy separation walls in accordance with the Wisconsin Commercial Building Code.
(Ord 65-99, §1, 9-19-99, Ord 126-01, §1, 7-18-01; Ord 23-09, §1, 1-13-09)

**Sec. 6-75. Repeat violation rule.**

Whenever the Fire Chief or his designee shall find in any building, upon inspections or re-inspections, a repeat violation involving a fire detection, life safety component, or suppression system which is defective, inoperative, improperly maintained or operated the Fire Chief or designee may order the following remedies and/or a re-inspection fee.

(a) If the system includes one (1) or more exit light(s) which have not been illuminated during inspections, it may be ordered that any or all of the exit lights in such premises be equipped with self-illuminating lights or light equipped with light emitting diodes (LEDs).

(b) If the system includes one (1) or more self-closing fire door(s), any of which have been found to have been held open with non-approved hold open devices during inspections, it may be ordered that any or all of the fire doors in such premises be equipped with an automatic closing device.

(c) If the system includes one (1) or more battery operated smoke detector(s) which have been found to be inoperative during inspections, it may be ordered that the premises be equipped with long life (5 – 10 year battery life) smoke detectors.

(1) If the same occupancy is subsequently found to have inoperative smoke detector(s) it may be ordered that the smoke detectors be hardwired into the electrical service of the premises.

(2) If the premise is found to have no operable smoke detectors, the Fire Department may install smoke detectors and may charge the owner for the actual cost of the detectors and installation.

(d) If the system includes emergency exit doors which, during hours of occupancy, have been found to be secured or locked with bolts, bars, chains, padlocks, or locking devices other than the primary locks, it may be ordered that such bolts, bars, chains, padlocks, or additional locking devices be immediately removed; and it may be further ordered that all emergency exit doors within the premises be equipped with panic door release hardware.

(e) This subsection shall not be construed as a limitation upon the powers of the Chief or his designee to issue orders for corrections of violations nor shall this subsection be construed as a limitation upon any of the powers of the Chief under any applicable provision of the City of Appleton Municipal Code, Wisconsin Administrative Code or the Wisconsin Statutes.
(Ord 23-09, §1, 1-13-09)

*(The next page is 491.)*

# Chapter 7

# Health and Sanitation

**ARTICLE I. IN GENERAL**
Reserved....7-1 – 7-25

**ARTICLE II. ADMINISTRATION**
Powers and duties and public health officials....7-26
State regulations adopted....7-27
Authority to prescribe additional rules and regulations....7-28
Authority to placard....7-29
Reserved....7-30 – 7-65

**ARTICLE III. RODENT CONTROL**
Definitions....7-66
Elimination of rat harborages....7-67
Elimination of rat feeding places....7-68
Ratproofing of buildings....7-69
Generally....7-69(a)
Sheds, barns and similar buildings....7-69(b)
Extermination....7-70
Residential premises....7-70(a)
Other premises....7-70(b)
Reserved....7-71 – 7-99

**ARTICLE IV. SMOKE FREE INDOOR AIR**
Smoking prohibited in certain areas....7-100
Definitions....7-100(a)
Intent and purpose....7-100(b)
Prohibition of smoking in indoor public places....7-100(c)
Prohibition of smoking in outdoor areas....7-100(d)
Prohibition of smoking in educational facilities....7-100(e)
Prohibition of smoking in places of employment....7-100(f)
Exceptions....7-100(g)
Enforcement....7-100(h)
Retaliation prohibited....7-100(i)
Violations and penalties....7-100(j)
Clean indoor air....7-100(k)
Severability....7-100(l)

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***Cross reference(s)--**Health officer, §2-261 et seq.; housing standards, §4-231 et seq.; sanitary facilities required for housing, §4-238.

**State law reference(s)--**Disposal of abandoned property, W.S.A. §66.28; noxious weeds, W.S.A. §66.955 et seq.

## ARTICLE I. IN GENERAL

**Secs. 7-1 – 7-25. Reserved.**

## ARTICLE II. ADMINISTRATION*

**Sec. 7-26. Powers and duties of public health officials.**

The Board of Health and the Health Officer shall have all the powers and duties conferred upon them by State Statutes and the ordinances, orders, rules and regulations of the State Board of Health and of the City.
(Code 1965, §7.01(4))

**Sec. 7-27. State regulations adopted.**

All rules and regulations of the state applicable to public health and sanitation are adopted by reference and made a part of this chapter with the same force and effect as though set forth in this chapter.
(Code 1965, §7.02(1))

**Sec. 7-28. Authority to prescribe additional rules and regulations.**

The Board of Health may adopt and publish such further lawful ordinances, orders, rules and regulations as in its judgment may be required for the preservation of the public health and report such ordinances, orders, rules and regulations to the Common Council. When such ordinances, orders, rules and regulations have been adopted, in whole or in part, by the Common Council, they shall, so far as adopted, be considered a part of this chapter, and any violation thereof shall be punished as if such ordinances, orders, rules and regulations were a part of this chapter.
(Code 1965, §7.03)

**Sec. 7-29. Authority to placard.**

The Health Officer, or designee, shall have the same authority under §4-186 as the Supervisor of Inspections, with regard to any building, structure, dwelling unit or equipment which is reported or found to be damaged, dangerous, unsafe or unfit for human habitation.
(Ord 134-05, §1, 11-22-05)

**Secs. 7-30 – 7-65. Reserved.**

## ARTICLE III. RODENT CONTROL*

### Sec. 7-66. Definitions.

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

***Hardware cloth*** means wire screening of such thickness and spacing as to afford reasonable protection against the entrance of rats and mice.

***Owner or manager***. Any person in actual possession of or charge, care or control of any property within the City shall be deemed the owner or manager of such property. When an entire premises or building is occupied as a place of business, the person in charge of such business shall be considered the owner or manager.

***Rat harborage*** means any place where rats can live without fear of frequent molestation or disturbance.

***Ratproof container*** means a container constructed of concrete or metal, or lined with metal or other material, that is impervious to rats. Openings into the container such as doors shall be tight fitting to prevent the entrance of rats.

***Ratproofing*** means closing openings in building foundations and openings under and around doors, windows, vents and other places which could provide means of entry for rats with concrete, sheet iron, hardware cloth or other types of ratproofing material approved by the Health Officer.
(Code 1965, §7.12(1))
**Cross reference(s) –** Definitions and rules of construction generally, §1-2.Administration, Ch. 2; Board of Health, §2-76 et seq.; boards, committees, commissions, §2-51 et seq., Buildings and building regulations, Ch. 4; nuisances, Ch. 12.

### Sec. 7-67. Elimination of rat harborages.

Whenever accumulation of rubbish, boxes, lumber, scrap metal, car bodies or any other materials provide rat harborage, the person owning or in control of such materials shall cause the materials to be removed, or the materials shall be stored as to eliminate the rat harborage. Lumber, boxes and similar materials shall be neatly piled. These piles shall be raised at least one (1) foot above the ground. When the owner of the materials cannot be found after reasonable search, the owner or manager of the premises on which the materials are stored shall be responsible for disposal or proper piling of the materials.
(Code 1965, §7.12(2))

### Sec. 7-68. Elimination of rat feeding places.

No person shall place or allow to accumulate any materials that may serve as food for rats in a site accessible to rats. Any waste material that may serve as food for rats shall be stored in ratproof containers. Feed for birds shall be placed in raised platforms or such feed shall be placed where it is not accessible to rats.
(Code 1965, §7.12(3))

### Sec. 7-69. Ratproofing of buildings.

(a) ***Generally.*** The owner or manager of any building in the City shall make such building reasonably ratproof, replace broken basement windows and, when necessary, cover the basement window opening with hardware cloth or other suitable material for preventing rats from entering the building through such window openings.

(b) ***Sheds, barns and similar buildings.*** The owner or manager of any premises upon which sheds, barns, coops or similar buildings are located shall eliminate the rat harborages from within and under such buildings by ratproofing, raising the buildings above the ground, or by some other suitable method, or such sheds, barns, coops or other buildings shall be razed.
(Code 1965, §7.12(5))

### Sec. 7-70. Extermination.

(a) ***Residential premises.*** Whenever rat holes, borrows or other evidence of rat infestation are found on any residential premises within the City, the Health Department shall be notified of existing conditions. Upon verification of conditions, the Health Department will be responsible for placing bait outside the structure for the extermination of rats.

(b) ***Other premises.*** Whenever rat holes, burrows or other evidence of rat infestation are found on any other premises or building within the City, the owner or manager of such property shall exterminate the rats. Within fourteen (14) days after extermination, the owner or manager shall cause all of the rat holes or burrows in the ground to be filled with earth or other suitable material.
(Code 1965, 7.12(4))

### Secs. 7-71 – 7-99. Reserved.

## ARTICLE IV. SMOKE FREE INDOOR AIR

### Sec. 7-100. Smoking prohibited in certain areas.

(a) ***Definitions.***

***Bed and breakfast establishment*** has the meaning set forth in Sec. 9-321.

***Childcare facility*** means any state licensed or county certified child care facility including, but not limited to, licensed family day care or licensed group day care centers, licensed day camps, certified school-age programs and Head Start programs.

***City buildings*** means all City-owned and operated buildings and those portions of buildings leased and operated by the City.

***Common areas of buildings*** means all areas not part of a tenant's leased premises, including, but not limited to, lobbies, community rooms, hallways, laundry rooms, stairwells, elevators, enclosed parking facilities, pool areas and restrooms contiguous thereto.

***Common areas of malls*** means those areas within a mall customarily accessible to patrons.

***Educational facility*** means any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a state agency or board.

***Employee*** means any person who is employed by any employer for direct or indirect monetary wages or profit, including those full time, part time, temporary or contracted for from a third party; employee also means any person who serves as a volunteer for a business or nonprofit entity.

***Employer*** means any person, partnership, limited liability company, corporation, or other entity, including a public or non-profit entity who employs the services of one (1) or more individual persons.

***Enclosed area*** means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from floor to ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, 'other landscaping' or similar structures.

***Entrance*** means a doorway and adjacent area which gives direct access to a building form a contiguous street, plaza, sidewalk or parking lot.

***Health care facility*** has the meaning set forth in Sec. 155.01(6), Wis. Stats.

***Hotel and motel*** has the meaning set forth in Sec. 9-341.

***Incidental*** means so minor in significance and non-essential to the primary use, purpose or operation that if the incidental use is discontinued, the primary purpose would continue without harm.

***Mall*** means an enclosed, indoor area containing common areas and discrete businesses primarily devoted to the retail sale of goods and services.

***Medical services*** has the meaning set forth in Sec. 647.01(6), Wis. Stats.

***Non-smoking*** means smoking is prohibited.

***Person in charge*** means the person who ultimately controls, governs or directs the activities aboard a public conveyance or within or at a place where smoking is regulated under this section, regardless of the person's status as owner or lessee.

***Place of employment*** means an enclosed area controlled by the employer, which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways. A private residence is not a 'place of employment' within the meaning of this ordinance unless used as a childcare facility.

***Private residence*** means premises owned, rented or leased by temporary or permanent habitation.

***Restaurant*** means an establishment defined in Sec. 9-236.

***Retail tobacco store*** means a business whose primary purpose is the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

***Room*** means a space within a building completely enclosed with walls, partitions, floor and ceiling, except for openings for light, ventilation, ingress and egress.

***School board*** means the school board in charge of the public schools, grades K-12, of a school district.

***Smokefree*** means absence from the ambient air of the smoke by-product from the burning, inhaling, exhaling, or carrying of a lighted cigarette, cigar, pipe, weed or plant.

***Smoking*** means to smoke or carry a lighted pipe, cigar, cigarette or tobacco-related products in any form.

***Sports arena*** means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and indoor ice rinks, and bowling centers.

***Tavern*** means any establishment whose primary purpose is the sale of fermented malt beverages or intoxicating liquors for consumption upon said premises and in which the sale of other products is merely incidental.

***Tobacco product*** means a combustible cigarette, cigar, weed, plant or other combustible substance prepared in such a manner that it is suitable for smoking. This section shall not include smoke-free tobacco products.

***Use tobacco products*** means to consume by burning, inhaling, exhaling or carrying a lighted cigarette, cigar, pipe, weed, plant, or any other combustible substance in any manner in any form.

(b) ***Intent and purpose.***

(1) The Common Council of the City of Appleton hereby finds that:

a. It is recognized that smoking of cigarettes and tobacco products is hazardous to an individual's health and may affect the health of nonsmokers when they are involuntarily in the presence of smoking.

b. Numerous scientific studies have found that tobacco smoke is a major contributor to indoor pollution.

c. Reliable scientific studies, including studies conducted by the Surgeon General of the United States, have shown that breathing sidestream or secondhand smoke is a significant health hazard to nonsmokers; particularly to children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.

d. Health hazards induced by breathing sidestream or secondhand smoke include lung cancer, respiratory infection, decreased respiratory function, decreased exercise tolerance, bronchoconstriction and bronchospasm.

e. Reliable scientific studies assessed by the California Environmental Protection Agency have found that sidestream and secondhand tobacco smoke is a leading cause of premature death and disability among

nonsmokers.

f. Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort to nonsmokers.

(2) This ordinance is adopted for the purpose of protecting the public health, safety, comfort and general welfare of the people of the City of Appleton, especially recognizing the rights of nonsmokers who constitute a majority of the population; educating citizens affected by this ordinance; and assisting owners, operators; and managers in maintaining compliance.

(c) ***Prohibition of smoking in indoor public places.*** Except as otherwise provided, it shall be unlawful for any person to smoke tobacco products in indoor public places, including, but not limited to, the following:

(1) Elevators and enclosed stairwells, including those within City parking ramps.

(2) Public forms of transportation, including, but not limited to, motor buses, taxicabs, or other public passenger vehicles.

(3) Theatres, libraries, museums, auditoriums, sports arenas, convention halls which are used by or open to the public.

(4) Any childcare facility. Incorporated herein by reference are the following Wisconsin statutory and administrative code sections and any amendments or renumbering thereof: Sec. 101.123(1)(ad) and (2)(bm), Wis. Stats.; Secs. HFS 45.02(4), 45.06(8)(g), 46.03(13), 46.06(2)(h), and 46.08(2)(c), Wis. Adm. Code.

(5) Retail stores.

(6) Health care facilities.

(7) Waiting rooms, hallways, rooms of health care laboratories.

(8) Waiting rooms, hallways, rooms in offices of any physician, dentist, psychologist, chiropractor, optometrist or optician, or other medical services provider.

(9) Meeting and conference rooms in which people gather for educational, business, professional, union, governmental, recreational, political or social purposes.

(10) Polling places.

(11) Service lobbies, waiting areas, and the common areas open to the public of financial institutions, business and professional offices, and multi-unit commercial facilities.

(12) Self-service laundry facilities.

(13) Enclosed, indoor areas of restaurants.

(14) Common areas of malls.

(15) Public bus and transfer point shelters.

(16) Common areas of building which contain three (3) or more rental units. Written Rental Agreements shall include reference to this subdivision.

(17) City buildings.

(18) City-owned or leased motor vehicles.

(19) Sports arenas.

(20) Taverns.

(21) Common areas in bed and breakfast establishments, hotels and motels.

(d) ***Prohibition of smoking in outdoor areas***. It shall be unlawful for any person to smoke or use tobacco products in the following outdoor areas.

(1) Within twenty (20) feet from all entry ways of City-owned buildings and structures, including, but not limited to, parking ramps, park pavilions, etc., except open air facilities and top floor of ramps.

(2) Outside of the Appleton Public Library, on the sidewalk between the main entrance and public parking lot, extending from Appleton Street to Oneida Street.

(3) Outside of the Transit Center in the area, inclusive of sidewalk area, from the north edge of the Transit Center building to Washington Street and from Oneida Street to the west edge of the East Parking Ramp.

(4) City parks as posted and so designated by the Parks and Recreation Department.

(e) ***Prohibition of smoking in educational facilities***. It shall be unlawful for any person to smoke or otherwise use any tobacco products:

(1) In all educational facilities and in or upon all other premises owned, rented by or under the control of a school board.

(f) ***Prohibition of smoking in places of employment***:

(1) It shall be unlawful for any person to smoke any tobacco products in all places of employment.

(2) Every building which is a place of employment shall have at least one (1) entrance which is smokefree.

(3) Each employer, operator, manager, lessee or other person having control of the place of employment shall make reasonable efforts to ensure a smokefree workplace for all employees and frequenters.

(4) Within ninety (90) days of the effective date of this ordinance, each employer having a place of employment located within the City of Appleton shall adopt, implement and communicate written notice of the provisions of this ordinance to each employee.

(g) ***Exceptions***. The following areas shall not be subject to the smoking restrictions of this section:

(1) Retail tobacco stores.

(2) Any stage of any theatre when used in connection with any theatrical performance and so noticed in the program.

(3) Bed and breakfast, hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided that not more than twenty-five percent (25%) of the rooms rented to guests are designated as smoking.

(h) ***Enforcement***.

(1) The Health Officer or designee and the Chief of Police or designee shall have the power, whenever they may deem it necessary, to enter upon the premises named in this section to ascertain whether the premises are in compliance with this ordinance. A compliance time of not less than one (1) week shall be granted. Enforcement may be by citation, as permitted by Sec. 1-16.

(2) The proprietor, employer or other person in charge or premises regulated hereunder, upon either observing or being advised of a violation, shall make reasonable efforts to prevent smoking in prohibited areas by:

a. Approaching smokers who fail to voluntarily comply with this section and requesting that they extinguish their cigarette or tobacco product and refrain from smoking, or

b. Refusing service to anyone smoking in a prohibited area.

(3) Any person who desires to register a complaint under this section may contact the Health Department or the Police Department.

(4) Ashtrays, cigarette vending machines and other smoking paraphernalia shall not be located in areas where smoking is prohibited.

(i) ***Retaliation prohibited***. No person shall discharge, refuse to hire, refuse to serve or in any other manner retaliate against any employee, applicant for employment, customer, service user, business patron or any other person because that person exercises any rights afforded by this section.

(j) ***Violations and penalties.***

(1) General. Any person who violates any of the provisions of this section may be subject to a forfeiture of no more than one hundred twenty-five dollars ($125) for the first offense and no more than five hundred dollars ($500) for the second and subsequent offenses. Each day that a violation occurs shall be considered a separate offense.

(k) ***Clean indoor air.***

(1) Intent and construction. The City of Appleton finds that it is in the interests of the health, safety and welfare of the community to adopt by reference Sec. 101.123, Wis. Stats. and subsequent amendments, additions and recodifications. It is the intent of the Common Council that where there may be conflict between Sec. 101.123, Wis. Stats. and Sec. 7-100, that the most restrictive section shall apply. This ordinance shall not be construed to mean that progressive discipline of City employees for violations of laws, rules and regulations is only authorized where explicitly provided by ordinance.

(2) Penalty. The penalties provided by Sec. 101.123, Wis. Stats. shall be in addition to the penalties provided for violation of Sec. 7-100 when a

person has violated both laws. In addition to the penalties provided by Sec. 7-100 and Sec. 101.123 Wis. Stats., any City employee who violates any provision of Sec. 7-100 or Sec. 101.123. Wis. Stats., may also be subject to progressive discipline by his or her employer.

(l) ***Severability***. The provisions of this section are severable. If any provision of this section is held to be invalid or unconstitutional or if the application of any provision of this section to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or applications of this section which can be given effect without the invalid or unconstitutional provisions or applications. It is hereby declared to be the intent of the Common Council that this section would have been adopted had any invalid or unconstitutional provision or applications not been included herein.

(m) The provisions of this ordinance, in its entirety, shall become effective on July 1, 2005.
(Ord 35-05, §1, effective 7-1-05)

*(The next page is 545.)*

# Chapter 8

## Human Relations

**ARTICLE I. IN GENERAL**
Reserved ..... 8-1 – 8-24

**ARTICLE II. FAIR HOUSING**
Policy ..... 8-25
Definitions ..... 8-26
Reserved ..... 8-27
Penalty for violation of article ..... 8-28
Administration and enforcement of article ..... 8-29
Discrimination prohibited ..... 8-30
Discrimination against victims of domestic abuse prohibited ..... 8-30(1)
Discrimination against persons with disability prohibited ..... 8-30(2)
Animals assisting persons with disabilities ..... 8-30(3)
Exceptions ..... 8-31

**ARTICLE III. ACCOMMODATION AND EMPLOYMENT**
Declaration of policy; purpose and intent ..... 8-50
Definitions ..... 8-51
Prohibited acts of discrimination; employment ..... 8-52
Prohibited acts of discrimination; business establishment or public accommodations ..... 8-53
Jurisdiction ..... 8-54
Enforcement ..... 8-55
Penalty; forfeiture ..... 8-56
Private actions ..... 8-57

## ARTICLE I. IN GENERAL

**Secs. 8-1 – 8-24. Reserved.**

## ARTICLE II. FAIR HOUSING*

**Sec. 8-25. Policy.**

It is the intent of this article to render unlawful discrimination in housing. It is the policy of the City to provide, within constitutional limitations, for fair housing throughout the city regardless of age, color, family status, gender identity and/or gender expression, marital status, national origin/ancestry, race, religion, color, persons with disability, sex, sexual orientation, source of lawful income or victims of domestic violence, sexual assault or stalking. Enforcement of the article shall be considered an exercise of the police powers of the City for the protection of the welfare, health, peace, dignity and human rights of the people of this city.

**Sec. 8-26. Definitions.**

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

***Committee*** means the City Safety and Licensing Committee.

***Discriminatory housing practice*** means:

(1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of any basis listed in §8-30.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of any basis listed in §8-30.

(3) To make, print or publish or cause to be made, printed or published any notice, statement or advertisement with respect to the sale, financing or rental of a dwelling that indicates any preference, limitation or discrimination because of any basis listed in §8-30 or an intention to make such preference, limitation or discrimination.

(4) To represent to any person because of any basis listed in §8-30 that any dwelling is not available for inspection, sale or rental when such dwelling is, in fact, so available.

(5) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of persons of a particular economic status or a member of a protected class as set forth in §8-30, or by representations to the effect that such present or prospective entry will or may result in any of the following:

a. The lowering of real estate values in the area concerned.

b. A deterioration in the character of the area concerned.

c. An increase in criminal or antisocial behavior in the area concerned.

d. A decline in the quality of the schools or other public service facilities in the area.

(6) For any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part of the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against such person in the fixing of the amount, interest, rate, duration or other terms or conditions of such loan or other financial assistance, because of any basis listed in §8-30 applicable to such person or to any associated person in connection with such loan or financial assistance, or of the present or prospective owners, lessees, tenants or occupants of the dwelling in relation to which such loan or other financial assistance is given.

(7) By advertising in a manner that indicates discrimination by a preference or limitation in violation of §8-30.

(8) For a person in the business of insuring against hazards, by refusing to enter into, or to do so by exacting terms, conditions or privileges with respect to a contract of insurance against hazards to a dwelling in violation of §8-30.

***Dwelling*** means any building, structure or portion thereof which is occupied as or designed or intended for occupancy as a residence by one (1) or more families, and vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

***Family*** includes one natural person.

***Family status*** means any of the following conditions that apply to a person seeking to rent or purchase housing or to a member or prospective member of the person's household regardless of the person's marital status:

(1) A person is pregnant.

(2) A person is in the process of securing sole or joint legal custody, periods of physical placement or visitation rights of a minor child.

(3) A person's household includes one (1) or more minor or adult relatives.

(4) A person's household includes one (1) or more adults or minor children in his or her legal custody or physical placement or with whom he or she has visitation rights.

(5) A person's household includes one (1) or more adults or minor children placed in his or her care under a court order, under guardianship or with the written permission of a parent or other person having legal custody of the adult or minor child, or adopted person.

***Person*** includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

***Protected classes*** are defined as:

(1) **Age**. Persons 18 years of age or older.

(2) **Color**. A person's skin color.

(3) **Disability/Handicap**. A physical or mental impairment that substantially limits one or more major life activities.

(4) **Domestic Abuse, Sexual Assault and Stalking Victims**. Persons who have been or are victims of domestic abuse, sexual assault or stalking.

(5) **Family Status**. Household composition, including the presence of children.

(6) **Gender Identity and/or Gender Expression**. A person's gender-related self-identity, appearance, expression or behavior, regardless of the person's assigned sex at birth.

(7) **Lawful Source of Income**. A person's legal means of income, including such subsidized forms as Social Security, food stamps, unemployment compensation, etc.

(8) **Marital Status**. Married, unmarried, single, divorced, widowed or separated.

(9) **National Origin/Ancestry**. The country of one's birth and/or the nationality of one's ancestors.

(10) **Race**. A person's race or the race of persons with whom one associates.

(11) **Religion**. A person's religious beliefs or denominational affiliation.

(12) **Sex**. A person's sex, including sexual harassment or intimidation.

(13) **Sexual Orientation**. Individuals identified as heterosexual, gay, lesbian, bisexual or any sexual orientation identity.

***To rent*** includes to lease, to sublease, to let and to otherwise grant for consideration the right to occupy premises not owned by the occupant.
(Code 1965, §22.01(3), Ord 105-04, §1, 8-10-04; Ord 75-13, §1, 9-10-13)
**Cross reference(s) –** Housing regulations, §4-231, et seq.; Definitions and rules of construction generally, §1-2.

**Sec. 8-27. Reserved.**

**Sec. 8-28. Penalty for violation of article.**

(a) Any person who violates this article or any lawful order issued under this article shall, for each violation, forfeit not more than ten thousand dollars ($10,000) along with other relief deemed appropriate which may include economic and noneconomic damages suffered by the aggrieved person and injunctive or other equitable relief.

(b) Any person adjudged to have committed one (1) other discriminatory act under this article within a five (5) year period, based on the offense date of the prior discriminatory act, may be assessed a forfeiture not exceeding twenty-five thousand dollars ($25,000). If a person is adjudged to have committed two (2) or more prior discriminatory acts under this article during the preceding seven (7) year period, based on the offense dates of the prior discriminatory acts, a forfeiture not exceeding fifty thousand dollars ($50,000) may be assessed.

(c) In addition to the above, a prevailing complainant, including the City, may be awarded reasonable attorney's fees and costs.
(Code 1965, §22.01(7); Ord 75-13, §1, 9-10-13)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 8-29. Administration and enforcement of article.**

(a) The Safety and Licensing Committee shall administer this article. The Committee shall have the power and duty to study the existence, character, cause and extent of the denial of equal opportunities on any basis listed in §8-30. It may disseminate information and attempt by means of discussion and other means to educate the people of the city to greater understanding, appreciation and practice of human rights.

(b) The Committee may receive and investigate a complaint charging a violation of this article if the complaint is filed with the City Clerk's Office within one year of the termination or occurrence of the alleged discriminatory practice. A complaint shall be a written statement of the essential facts constituting the discrimination charged.

(c) If the Committee finds probable cause to believe that any discrimination has been or is being committed in violation of this article, it shall endeavor to eliminate such discrimination by conference, conciliation and persuasion. If the Committee determines that such conference, conciliation and persuasion has not eliminated the alleged discrimination, the Committee may commence and prosecute a civil action to enforce the provisions of this article. In administering this article the Committee may

hold hearings, subpoena witnesses, take testimony and make investigations.

(d) The City Attorney may bring a civil action in circuit court by filing with it a complaint setting forth the facts and requesting such preventative relief, including an application for a temporary or permanent injunction, restraining order, or such other order as he deems necessary to ensure the full enjoyment of the rights granted by this article; provided, however, that nothing in this section shall prevent the imposition of fine or forfeiture in addition to other remedies enumerated in this section. Any person who shall violate any provisions of this article shall be subject to penalty as provided in §8-28.

(e) In addition to the remedies set forth in this Article, an aggrieved person may commence a civil action in any court of competent jurisdiction to obtain appropriate relief with respect to violations set forth in this Article.
(Code 1965, §22.01(6), Ord 105-04, §1, 8-10-04 ; Ord 75-13, §1, 9-10-13)

**Sec. 8-30. Discrimination prohibited.**

Subject to other provisions of this article, no person may discriminate in the rental of housing, procurement of property owner's insurance or commit any sale or discriminatory housing practice against any person on the basis of actual or perceived: age, color, family status, gender identity and/or gender expression, marital status, national origin/ancestry, race, religion, color, persons with disability, sex, sexual orientation, source of lawful income or victims of domestic violence, sexual assault or stalking.

(1) ***Discrimination against victims of domestic abuse prohibited***. A person may not evict a tenant or refuse to rent or lease residential property based on the fact that a tenant or prospective tenant or a member of the tenant's or prospective tenant's household has been or may be the victim of domestic abuse, as defined in §813.12(1)(a), Wis. Stats., or has been a victim of a crime prohibited by Chapter 948, Wis. Stats.

(2) ***Discrimination against persons with disabilities prohibited***. For the purposes of this section, "discrimination" includes but is not limited to:

(a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(b) A refusal to make reasonable accommodation in rules, policies, practices or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a dwelling.

(c) In connection with the design and construction of covered multi-family dwellings for first occupancy after March 31, 1991, a failure to design and construct the dwelling in a manner that the public use and common use areas of the dwelling are easily accessible to and useable by disabled persons; or, a failure to comply with the appropriate requirements providing accessibility and usability for physically disabled people as set forth within, or adopted by, this code including the American National Standard for buildings and facilities requirements.

(3) ***Animals assisting persons with disabilities.***

(a) If an individual's vision, hearing or mobility is impaired, it is discrimination for a person to refuse to rent or sell housing to the individual, cause the eviction of the individual from housing, require extra compensation from an individual as a condition of continued residence in housing or engage in the harassment of the individual because he or she keeps an animal that is specially trained to lead or assist the individual with impaired vision, hearing or mobility if all of the following apply:

1. Upon request, the individual shows to the lessor, seller or representative of the condominium association credentials issued by a school recognized by the department as accredited to train animals for individuals with impaired vision, hearing or mobility.

2. The individual accepts liability for

sanitation with respect to, and damage to the premises caused by, the animal.

(b) Subdivision (a) does not apply in the case of the rental of owner-occupied housing if the owner or a member of his or her immediate family occupying the housing possesses and, upon request, presents to the individual a certificate signed by a physician which states that the owner or family member is allergic to the type of animal the individual possesses.

(Ord 105-04, §1, 8-10-04 ; Ord 1-12 ; §1, 1-10-12 ; Ord 75-13, §1, 9-10-13)

**Sec. 8-31. Exceptions.**

(a) Nothing in this article shall prohibit:

(1) A religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons.

(2) A private club, not in fact open to the public, which as incident to its primary purpose provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(3) Discrimination on the basis of age or persons with disability in relation to housing designed to meet the needs of the elderly or persons with disabilities.

(b) With the exception of prohibitions against discriminatory advertising and statements, this article shall not apply to:

(1) An owner-occupied building containing no more than four units when the units are being sold or rented without the assistance of a real-estate broker, agent or such facilities or services in the business of selling or renting dwellings.

(2) A single-family residence if it is rented or sold by an owner who does not own more than three such single-family residences at any one time and; provided that in the case of the sale of any such single-family residence by a private individual owner not residing in the house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within a twenty-four (24) month period and; provided any such single-family residence is being sold or rented without the assistance of a real-estate broker, agent or such facilities or services in the business of selling or renting dwellings.

(Code 1965, §22.01(4), Ord 105-04, §1, 8-10-04; Ord 75-13, §1, 9-10-13)

**Secs. 8-32 – 8-49. Reserved.**

## ARTICLE III. ACCOMMODATION AND EMPLOYMENT

### Sec. 8-50. Declaration of policy; purpose and intent.

(a) A vibrant, productive and economically successful city is made possible by the talents, contributions and well-being of its diverse residents. It is the policy of the City of Appleton that equal rights of all those who live and work in the city are assured, and that equal rights and equal opportunity within the context of the larger commercial an social fabric of the Appleton community are promoted.

(b) The practice of providing equal opportunity in employment and public accommodations to persons without regard to actual or perceived race, color, creed, religion, national origin, ancestry, age, sex/gender, disability, arrest/conviction record, marital status, sexual orientation, gender identity and/or gender expression, political affiliation, results of genetic testing, honesty testing, pregnancy or childbirth, military service, disabled veteran or covered veteran status, service in the U.S. Armed Force, the State Defense force, National Guard of any state, or any reserve component of the United States or State military forces, or an individual's affiliation with or perceived affiliation with any of these protected categories, is a desirable goal of the City of Appleton and a matter of legitimate concern to its government. Discrimination against any of Appleton's residents or visitors endangers the rights and privileges of all and deprives the community of the fullest productive capacity of those of its members so discriminated against and denies to them the sufficiency of earnings necessary for maintaining the standards of living consistent with their abilities and talents.

(c) Provision for adequate safeguards against discrimination is a proper and necessary function of city government. To protect the health, safety and general welfare of all inhabitants of the city, and all persons employed and living within the city, it is declared to be the public policy of this city to foster and enforce to the fullest extent of the law equal opportunity employment and public accommodations without regard to actual or perceived race, color, creed, religion, national origin, ancestry, age, sex/gender, disability, arrest/conviction record, marital status, sexual orientation, gender identity and/or gender expression, political affiliation, results of genetic testing, honesty testing, pregnancy or childbirth, military service, disabled veteran or covered veteran status, service in the U.S. Armed Force, the State Defense force, National Guard of any state, or any reserve component of the United States or State military forces, or an individual's affiliation with or perceived affiliation with any of these protected categories. To fully effectuate this policy of promoting nondiscrimination, the city shall endeavor to eliminate all discrimination that may occur within employment and accommodation within the city of Appleton.

(d) Where applicable, this chapter shall be interpreted and applied consistently with the provisions of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. sections 3601, et seq., 24 C.F.R. sections 100, et seq., and ss. 66.1011, 106.50 and 111.31, Wis. Stats., and any successor provisions of state and federal law.
(Ord 40-14, §1, 6-24-14)

### Sec. 8-51. Definitions.

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

***Age*** means being age 40 or older.

***Ancestry*** means the country, nation, tribe or other identifiable group from which one descends.

***Arrest/Conviction Record*** means information indicating a person was questioned, arrested, charged or convicted of a felony or misdemeanor. An employer may reject an applicant or fire an employee whose conviction is substantially related to the job.

***Color*** means color of skin.

***Disability*** means, with respect to a person, any of the following:

(1) A physical or mental impairment which substantially limits one or more of the person's major life activity.

(2) A record of having an impairment.

(3) Being perceived as having impairment.

(4) This term does not include current, illegal use of or addition to a controlled substance. The behavioral manifestations of a mental disability may be taken into consideration in determining whether or not the applicant is qualified.

***Discriminate, discrimination or discriminatory*** shall mean any act, policy, advertisement or practice which, regardless of intent, has the effect of subjecting any person to differential treatment as a result of that person's actual or perceived race, color, creed, religion, national origin, ancestry, age, sex/gender, disability, arrest/conviction record, marital status, sexual orientation, gender identity and/or gender expression, political affiliation, results of genetic testing, honesty testing, pregnancy or childbirth, military service, disabled veteran or covered veteran status,

service in the U.S. Armed Force, the State Defense force, National Guard of any state, or any reserve component of the United States or State military forces. Discrimination also includes any differential treatment because of one's association with a person or group of people identified herein.

***Employee*** shall mean any individual employed or seeking employment from an employer.

***Employer*** shall mean any person who, for compensation, regularly employs five or more individuals, not including the employer's parents, spouse or children. For purposes of [this ordinance] an "employer" is also any person acting on behalf of an employer, directly or indirectly, or any employment agency.

***Gender identity and/or gender expression*** means a person's gender-related self-identity, appearance, expression or behavior, regardless of the person's assigned sex at birth.

***Marital Status*** means the status of being married, single, divorced, separated or widowed.

***Military Service*** means service in the U.S. armed forces, the state defense force, the national guard of any state, or any other reserve component of the U.S. armed forces.

***National origin*** means generally a member of a nation by origin, birth or
naturalization or having common origins.

***Outside Lawful Products*** means use or nonuse of lawful products (e.g., tobacco, alcohol) off the employer's premises during nonworking hours.

***Person*** shall mean any natural person, firm, corporation, partnership or other organization, association or group of persons however arranged.

***Place of public accommodation*** shall all establishments within the city of Appleton which offers goods, services, accommodations and entertainment to the public. A place of public accommodation does not include any institution or club which by its nature is distinctly private.

***Race*** means generally a member of a group united or classified together on the basis of common history, nationality or geography.

***Religion or creed*** means a system of religious beliefs including moral or ethical beliefs about right and wrong that are sincerely held with the strength of traditional religious views.

***Sex/gender*** means being female or male.

***Sexual Orientation*** means a person's actual or perceived heterosexuality, homosexuality, asexuality, or bisexuality.
(Ord 40-14, §1, 6-24-14)

**Sec. 8-52. Prohibited acts of discrimination; employment.**

(a) With regard to employment, it shall be unlawful for any employers or labor organizations, to engage in any of the following acts, wholly or partially for a discriminatory reason:

(1) To discriminate against any individual, with respect to failure to hire, refusal to hire, discharge, compensation, terms, conditions, or privileges of employment, including promotion; however nothing in this subsection shall be construed to require any employer to provide benefits, such as insurance, to individuals not employed by the employer;

(2) To limit, segregate, or classify employees in any way which would deprive or tend to deprive any employee of employment opportunities, or which would otherwise tend to adversely affect his or her status as an employee; or

(3) To fail or refuse to refer for employment, or to give negative information to a potential employer of any individual, in such a manner that would deprive or limit an individual's employment opportunities or that would otherwise adversely affect an individual's status as an applicant or prospective employee.

(Ord 40-14, §1, 6-24-14)

**Sec. 8-53. Prohibited acts of discrimination; business establishment or public accommodations.**

It shall be unlawful for a business establishment or place of public accommodation to deny, directly or indirectly, any person the full enjoyment of the goods, services, facilities, privileges, advantages, and accommodations wholly or partially for a discriminatory reason.
(Ord 40-14, §1, 6-24-14)

**Sec. 8-54. Jurisdiction.**

(a) The City of Appleton shall not exercise jurisdiction over any complaint that sets forth or states any facts or allegations that are subject matter within the jurisdiction of any state or federal agency, including but not limited to the U.S. Equal Employment Opportunity Commission or the State of Wisconsin, Department of(1) Workforce Development, regardless of whether the complainant has chosen to file with that said agency or not.

When a complaint or inquiry is presented to the Mayor or to designated staff, and it appears that the City does not have jurisdiction as indicated above, the complainant shall be referred to the appropriate state or federal enforcement agencies.

(b) It shall not be an unlawful discriminatory practice for an employer to observe the conditions of a bona fide seniority system or a bona fide employee benefit system based on age such as a retirement, pension or insurance plan which is not a subterfuge or pretext to evade the purposes of this ordinance.

(c) Nothing contained in this ordinance shall be deemed to prohibit selection or rejection based solely upon a bona fide occupational qualification, a bona fide physical requirement, or, as to a religious or denominational institution, based upon a preference for applicants of the same religion or denomination.
(Ord 40-14, §1, 6-24-14)

**Sec. 8-55. Enforcement.**

(a) Any person who claims to have been injured under this ordinance may file a written complaint with the Mayor of Appleton (or designee), setting forth therein the details, including location of property, names, dates, witnesses, and other factual matters. All such complaints shall be signed by the complainant. Such complaints shall be filed within one year after the alleged violation of this ordinance.

(b) The Mayor may receive, hear and determine complaints as provided herein. The Mayor may adopt rules, policies and regulations, and involve City staff as the Mayor deems appropriate, consistent with this ordinance and the laws of this state to carry out the policy and provisions of this ordinance and the powers and duties of the Office of the Mayor.

(c) The Mayor may informally recommend solutions to the parties to the complaint to address the situation.

(d) A timely-filed complaint shall be referred immediately to the City Attorney.
(Ord 40-14, §1, 6-24-14)

**Sec. 8-56. Penalty; forfeiture.**

(a) Any person found in violation of this ordinance shall, for the first violation, forfeit not less than $500 nor more than $5,000, plus the cost of the action.

Each day upon which a violation occurs shall constitute a separate violation.

(b) For each successive violation within 5 years of having been adjudged to be in violation of this ordinance, the person shall forfeit not less than $1,000 nor more than $10,000.
(Ord 40-14, §1, 6-24-14)

**Sec. 8-57. Private actions.**

In addition to the remedies set forth in this ordinance, an aggrieved person may commence a civil action in any court of competent jurisdiction to obtain appropriate relief with respect to violations set forth in this Article.
(Ord 40-14, §1, 6-24-14)

*(The next page is 599)*

# Chapter 9

## Licenses, Permits and Business Regulations


**ARTICLE I. IN GENERAL**
Exemptions from chapter ..... 9-1
Fraudulent advertising ..... 9-2
Reserved ..... 9-3 – 9-20

**ARTICLE II. LICENSES AND PERMITS GENERALLY**
Generally ..... 9-21
Application ..... 9-22
Issuance generally; display ..... 9-23
Licenses not requiring Council approval ..... 9-24
Special issuance by Mayor ..... 9-25
Appeal of denial ..... 9-26
Transfer; issuance to or use by agent or employees ..... 9-27
Expiration ..... 9-28
Revocation or suspension ..... 9-29
Causes ..... 9-29(a)
Procedure ..... 9-29(b)
Miscellaneous license fees ..... 9-30
Miscellaneous licenses ..... 9-31
Refund of fees; replacement fee ..... 9-32
Walks, curbs and other concrete work license ..... 9-33
License required ..... 9-33(a)
Application for license; issuance; term ..... 9-33(b)
License fee; bond and insurance ..... 9-33(c)
Revocation of license ..... 9-33(d)
Reserved ..... 9-34 – 9-50

**ARTICLE III. ALCOHOLIC BEVERAGES**
DIVISION 1. GENERALLY
Adoption of state law ..... 9-51
Operation of premises licensed for retail sales ..... 9-52
Adoption of state law regarding sale of alcoholic beverages to intoxicated persons ..... 9-53
Demerit point system ..... 9-54
Calculating violations ..... 9-54(c)
Suspension and revocation of license ..... 9-54(d)
Scope ..... 9-54(e)
Transfer/sale of licensed business ..... 9-54(f)
Quadricycles ..... 9-55
Reserved ..... 9-56 – 9-70
DIVISION 2. LICENSES
Persons requiring license ..... 9-71
Separate license required for each place of sale ..... 9-72
Issuance for residential premises ..... 9-73
Application ..... 9-74
Classes of licenses; fees ..... 9-75
Restrictions on issuance ..... 9-76
Investigation of applicant for class B license ..... 9-77
Generally ..... 9-77(a)
Renewals ..... 9-77(b)
Granting; term; transfer ..... 9-78
Appeal of denial ..... 9-79
Posting; duplicates ..... 9-80
Revocation ..... 9-81
Improper exhibitions ..... 9-82

Reserved....9-83 – 9-100

**ARTICLE IV. AMUSEMENTS AND ENTERTAINMENT**
DIVISION 1. GENERALLY
Reserved....9-101 – 9-125
DIVISION 2. MECHANICAL AMUSEMENT DEVICES
Definition....9-126
Licenses generally....9-127
Reserved....9-128
Form of license; posting of license....9-129
Reserved....9-130 – 9-150

**ARTICLE V. CABLE TELEVISION SERVICE**
Short title....9-151
Purposes....9-152
Definitions....9-153
Grant of authority....9-154
Requirement of a franchise....9-154(a)
Franchise applications....9-154(b)
Franchise conditions....9-155
Franchise term and non-exclusivity....9-155(a)
Notice to the grantee....9-155(b)
Modification of franchise obligations....9-155(c)
Performance evaluation session....9-155(d)
Franchise renewal....9-155(e)
Franchise revocation procedures....9-155(f)
Franchise fee....9-155(g)
Insurance; bonds; indemnity....9-155(h)
Transfer of franchise....9-155(i)
Subscriber fees and records....9-156
System operations....9-157
Franchise areas....9-157(a)
Systems description and service....9-157(b)
Operational requirements and records....9-157(c)
Tests and performance monitoring....9-157(d)
Service, adjustment and complaint procedure....9-157(e)
Street occupancy....9-157(f)
Construction schedule and reports....9-157(g)
Protection of privacy....9-157(h)
Prohibition from engaging in radio and television sales or service....9-157(i)
Area wide interconnection of cable systems....9-157(j)
General provisions....9-158
Limits on grantee's recourse....9-158(a)
Compliance with state and federal law....9-158(b)
Special license....9-158(c)
Conflict....9-158(d)
Failure to enforce franchise....9-158(e)
Rights reserved to the grantor....9-158(f)
Employment requirement....9-158(g)
Time essence of agreement....9-158(h)
Acceptance....9-158(i)
Publication costs....9-158(j)
Landlord/tenant relations....9-158(k)
Interference with cable service prohibited....9-158(k)(1)
Gratuities and payments to permit service prohibited....9-158(k)(2)
Penalties and charges to tenants for service prohibited....9-158(k)(3)
Reselling service prohibited....9-158(k)(4)
Protection of property permitted....9-158(k)(5)

Risks assumed by grantee ..... 9-158(k)(6)
Theft of service ..... 9-158(l)
Penalties ..... 9-158(m)
Grantee may promulgate rules ..... 9-158(n)
Delegation of powers ..... 9-158(o)
Severability ..... 9-158(p)
Effective date ..... 9-158(q)
Reserved ..... 9-159 – 9-185

**ARTICLE VI. FOOD AND FOOD SERVICE ESTABLISHMENTS**
DIVISION 1. GENERALLY
Application for license ..... 9-186
Issuance of license generally ..... 9-187
Inspection required prior to granting of license; fee ..... 9-188
Transfer of license; issuance to agent or employee ..... 9-189
Expiration and renewal of license ..... 9-190
Suspension or revocation of license ..... 9-191
Reserved ..... 9-192
Right of entry; testing of samples ..... 9-193
Correction of violations; citations ..... 9-194
Emergency powers of Health Officer ..... 9-195
Appeals ..... 9-196
Litter disposal at drive-ins and premises with outside vending machines ..... 9-197
Reserved ..... 9-198 – 9-215
DIVISION 2. RETAIL FOOD ESTABLISHMENTS
Definitions ..... 9-216
License required ..... 9-217
Fees ..... 9-218
State sanitation regulations adopted ..... 9-219
Reserved ..... 9-220 – 9-235
DIVISION 3. RESTAURANTS AND OTHER PUBLIC EATING AND DRINKING ESTABLISHMENTS
Definitions ..... 9-236
License required; fees ..... 9-237
State sanitation regulations adopted ..... 9-238
Cleanliness of utensils ..... 9-239
Reserved ..... 9-240 – 9-255
DIVISION 4. SIDEWALK CAFES
Definitions ..... 9-256
Permit required ..... 9-257
Application for permit; permit fees ..... 9-258
Granting; transfer ..... 9-259
Appeal of denial ..... 9-260
Restrictions on use of permit ..... 9-261
Conduct of business generally ..... 9-262
Revocation, suspension, non-renewal ..... 9-263
Causes ..... 9-263(a)
Procedure ..... 9-263(b)
Liability insurance ..... 9-264
Penalty for violation of division ..... 9-265
Reserved ..... 9-266 – 9-275
DIVISION 5. RESERVED
Reserved ..... 9-276 – 9-295

**ARTICLE VII. HOTELS, MOTELS AND OTHER TOURIST ROOMING HOUSES**
DIVISION 1. GENERALLY
Application for license ..... 9-296
Issuance of license generally ..... 9-297

Inspection required prior to granting of license; fee ..... 9-298
Transfer of license; issuance to agent or employee ..... 9-299
Expiration and renewal of license ..... 9-300
Suspension or revocation of license ..... 9-301
Right of entry; testing of samples ..... 9-302
Correction of violations; citations ..... 9-303
Emergency powers of Health Officer ..... 9-304
Appeals ..... 9-305
Reserved ..... 9-306 – 9-320
DIVISION 2. BED AND BREAKFAST ESTABLISHMENTS
Definition ..... 9-321
License required; fees ..... 9-322
State sanitations regulations adopted ..... 9-323
Guest register ..... 9-324
Reserved ..... 9-325 – 3-340
DIVISION 3. HOTELS, MOTELS AND TOURIST ROOMING HOUSES
Definition ..... 9-341
License required; fee ..... 9-342
State sanitation regulations adopted ..... 9-343
Reserved ..... 9-344 – 9-360

**ARTICLE VIII. JUNKYARDS AND SECONDHAND GOODS DEALERS**
DIVISION 1. GENERALLY
Reserved ..... 9-361 – 9-385
DIVISION 2. SALVAGE DEALERS
License required ..... 9-386
Application for license ..... 9-387
Investigation; issuance of license ..... 9-388
Appeal of denial of license ..... 9-389
License fee ..... 3-390
Nonconforming uses ..... 9-391
Change of place of business ..... 9-392
Probation ..... 9-393
Operation of business generally ..... 9-394
Register required ..... 9-395
Exhibition of register and goods ..... 9-396
Lost or stolen articles ..... 9-397
Acceptance of goods from minor, intoxicated person or person of unsound mind ..... 9-398
Clearing of premises on closing of operation ..... 9-399
Reserved ..... 9-400 – 9-415
DIVISION 3. SECONDHAND GOODS DEALERS
State law adopted ..... 9-416
License required ..... 9-417
Exempted secondhand article dealers ..... 9-418
Application for license; license fees ..... 9-419
Issuance of license ..... 9-420
Requirements ..... 9-421
Daily reports to police ..... 9-421(a)
Holding period ..... 9-421(b)
Storage of goods ..... 9-421(c)
Reserved ..... 9-422

**ARTICLE IX. RESERVED**
Reserved ..... 9-423 – 9-490

**ARTICLE X. MISCELLANEOUS SALES**
DIVISION 1. GENERALLY
Reserved ..... 9-491 – 9-545

DIVISION 2. CLOSE-OUT SALES AND OTHER BUSINESS TERMINATIONS
Adoption of state law ..... 9-546
Permit generally ..... 9-547
Permit required ..... 9-547(a)
Application ..... 9-547(b)
Fee; term; limitation on issuance ..... 9-547(c)
Payment of outstanding taxes and fees ..... 9-547(d)
Appeal of denial of permit ..... 9-548
Adding merchandise to inventory ..... 9-549
Access to business records ..... 9-550
Reserved ..... 9-551 – 9-565
DIVISION 3. CHRISTMAS TREE SALES
License generally ..... 9-566
Appeal of denial of license ..... 9-567
Cleanup of lot ..... 9-568
Reserved ..... 9-569 – 9-585

**ARTICLE XI. PEDDLERS, SOLICITORS, CANVASSERS AND OTHER TRANSIENT MERCHANTS**
DIVISION 1. GENERALLY
Reserved ..... 9-586 – 9-610
DIVISION 2. COMMERCIAL SOLICITATION
Definitions ..... 9-611
Exemptions from division ..... 9-612
License required ..... 9-613
Application for license; license fees ..... 9-614
License investigation ..... 9-615
Bond ..... 9-616
Issuance and term of license; restrictions on use; identification card ..... 9-617
Appeal of denial of license ..... 9-618
Surrender of license; alteration of license; failure to display license ..... 9-619
Prepayments ..... 9-620
Conduct of business generally – commercial solicitation licenseholders ..... 9-621
Vending of products from vehicles in the public streets ..... 9-622
License suspension ..... 9-623
Reserved ..... 9-624 – 9-625
DIVISION 3. CENTRAL BUSINESS DISTRICT STREET VENDORS
Purpose ..... 9-626
Definitions ..... 9-627
License and Street Occupancy Permit required ..... 9-628
Liability insurance ..... 9-629
Application for license; license fees ..... 9-630
Non-food vendors ..... 9-630(a)
Food vendors ..... 9-630(b)
License investigation ..... 9-631
Bond ..... 9-632
Issuance and term of Street Occupancy Permit/License; restrictions on use; identification card ..... 9-633
Appeal of denial of license ..... 9-634
Revocation of license ..... 9-635
Renewal of CBD Street Vendor Licenses ..... 9-636
Surrender of license; alteration of license; failure to display license ..... 9-637
Prepayments ..... 9-638
Conduct of business generally – CBD street vendors ..... 9-639
Vending of products from vehicles or other on-street unit in the public streets ..... 9-640
DIVISION 4. CHARITABLE SOLICITATION
Definitions ..... 9-641
Exemptions from division ..... 9-642
Permit required ..... 9-643

Application for permit; issuance of permit ..... 9-644
Application ..... 9-644(a)
Granting ..... 9-644(b)
Fee ..... 9-644(c)
Form of permit ..... 9-644(d)
Expiration of permit ..... 9-645
Revocation of permit ..... 9-646
House of solicitation ..... 9-647
Reserved ..... 9-648 – 9-670

**ARTICLE XII. PUBLIC SWIMMING POOLS**
Definition ..... 9-671
License required ..... 9-672
Fees ..... 9-673
Application for license ..... 9-674
Issuance of license generally ..... 9-675
Inspection required prior to granting of license; fee ..... 9-676
Transfer of license; issuance to agent or employee ..... 9-677
Expiration and renewal of license ..... 9-678
Suspension or revocation of license ..... 9-679
Right of entry; testing of samples ..... 9-680
Correction of violations; citations ..... 9-681
Emergency powers of Health Officer ..... 9-682
Appeals ..... 9-683
State sanitation regulations adopted ..... 9-684
Authority to close pools ..... 9-685
Reserved ..... 9-686 – 9-695

**ARTICLE XIII. VEHICLES FOR HIRE**
DIVISION 1. GENERALLY
Reserved ..... 9-695 – 9-719
DIVISION 2. TAXICABS AND SIMILAR SERVICES
Definitions ..... 9-720
Licenses – required; exemptions ..... 9-721
Same – application; issuance; renewal ..... 9-722
Application ..... 9-722(a)
Hearing; approval by Council ..... 9-722(b)
Renewal ..... 9-722(c)
Fee; approval by Police Chief ..... 9-722(d)
Insurance ..... 9-723
Off-street parking ..... 9-724
Posting of fares ..... 9-725
Identification of taxicabs ..... 9-726
Inspection of taxicabs and limousines ..... 9-727
Taxicab/limousine driver's license – required; term ..... 9-728
Same – Application; issuance; revocation ..... 9-729
Application ..... 9-729(a)
Issuance ..... 9-729(b)
Same – appeal of denial ..... 9-730
Reserved ..... 9-731 – 9-745
DIVISION 3. WRECKER SERVICES
Services on police call list ..... 9-746
Notifications of police required prior to towing of certain vehicles ..... 9-747
Receipt for services ..... 9-748
Insurance ..... 9-749
Equipment ..... 9-750
Removal from the police call list ..... 9-751
Reserved ..... 9-752 – 9-774

**ARTICLE XV. RECREATIONAL AND EDUCATIONAL CAMPS AND CAMPGROUNDS**
DIVISION 1. GENERALLY
Application for license ..... 9-775
Issuance of license generally ..... 9-776
Inspection required prior to granting of license; fee ..... 9-777
Transfer of license; issuance to agent or employee ..... 9-778
Expiration and renewal of license ..... 9-779
Suspension or revocation of license ..... 9-780
Right of entry; testing of samples ..... 9-781
Correction of violations; citations ..... 9-782
Emergency powers of Health Officer ..... 9-783
Appeals ..... 9-784
Reserved ..... 9-785 – 9-795
DIVISION 2. RECREATIONAL AND EDUCATIONAL CAMPS
Definitions ..... 9-796
License required; fees ..... 9-797
State sanitation regulations adopted ..... 9-798
Reserved ..... 9-799 – 9-780
DIVISION 3. CAMPGROUNDS
Definitions ..... 9-811
Exemptions ..... 9-812
License required; fees ..... 9-813
State sanitation regulations adopted ..... 9-814

**ARTICLE XVI. FARMERS MARKETS**
Definitions ..... 9-815
License required ..... 9-816
Application for license; license fees ..... 9-817
License investigation ..... 9-818
Rules of operation ..... 9-819
Violations ..... 9-820
Reserved ..... 9-821 – 9-829

**ARTICLE XVII. ESCORTS AND ESCORT SERVICES**
Definitions ..... 9-830
Exemptions ..... 9-831
License required ..... 9-832
Application for license ..... 9-833
Standards for license issuance ..... 9-834
Renewal of license ..... 9-835
Denial of application ..... 9-836
Suspension, revocation or non-renewal of license ..... 9-837
Responsibilities of the operator ..... 9-838
Registration of employees ..... 9-839
Penalties ..... 9-840
Severability ..... 9-841
Reserved ..... 9-842 – 9-849

**ARTICLE XVIII. TATTOO AND BODY PIERCING ESTABLISHMENTS**
Authority and purpose ..... 9-850
Definitions ..... 9-851
Scope ..... 9-852
Right of entry ..... 9-853
Responsibility of the operator ..... 9-854
Correction of violations, citations ..... 9-855
Reserved ..... 9-856 – 9-859
DIVISION 2. LICENSES

Generally ..... 9-860
Application for establishment license ..... 9-861
Requirements ..... 9-861(a)
Prohibitions ..... 9-861(b)
Expiration and renewal of license ..... 9-861(c)
Application for practitioner license ..... 9-862
Requirements ..... 9-862(a)
Suspension or revocation of license ..... 9-863
Emergency powers of health officer ..... 9-864
Appeals ..... 9-865
Reserved ..... 9-866 – 9-869
DIVISION 3. LIMITATIONS
Temporary establishments ..... 9-870
Patrons consent ..... 9-871
Minors ..... 9-872
Barriers to procedure ..... 9-873
Records ..... 9-874
Reserved ..... 9-875 – 9-879
DIVISION 4. HEALTH AND SANITARY REQUIREMENTS
Requirements ..... 9-880
Restrictions ..... 9-881
Hygienic procedure requirements ..... 9-882
Clothing ..... 9-883
Physical examination of practitioners ..... 9-884
Equipment ..... 9-885
Reserved ..... 9-886 – 9-889
DIVISION 5. PHYSICAL FACILITIES AND ENVIRONMENT
Condition of premises ..... 9-890
Physical facilities ..... 9-891
Lighting ..... 9-891(a)
Living areas ..... 9-891(b)
Toilet rooms ..... 9-891(c)
Hand washing facilities ..... 9-891(d)
Refuse ..... 9-891(e)
Equipment storage ..... 9-892
Privacy ..... 9-893
Restrictions ..... 9-894
Smoking and eating prohibited in area of procedure ..... 9-894(a)
Animals prohibited in establishment ..... 9-894(b)
Reserved ..... 9-895 – 9-899
DIVISION 6. CLEANING AND STERILIZATION
Cleaning ..... 9-900
Sterilization ..... 9-901
Reserved ..... 9-902 – 9-905
DIVISION 7. PREPARATION AND CARE OF SITE
Generally ..... 9-906
Preparation by practitioner ..... 9-907
Care instructions for patron ..... 9-908
Reserved ..... 9-909 – 9-920

***Cross reference(s)--**Destruction of license and permit applications, stubs and duplicates, §2-1; kennel license required, §3-91 et seq.; electrician licenses required, §4-391 et seq.; heating, ventilating and air conditioning license required, §4-476 et seq.; mobile home park license required, §11-46 et seq.; regulations regarding posting of advertising and other matter, §12-1; alarm systems, §12-121 et seq.; permits required for any work in public right-of-way, §16-12; permit and license required for construction or repair of sidewalks, §16-59; persons weighing or measuring or using weighing or measuring devices and systems and accessories required to be licensed, §22-36 et seq.

**State law reference(s)--**Municipal administrative procedure, W.S.A. §68.001 et seq.

## ARTICLE I. IN GENERAL

### Sec. 9-1. Exemptions from chapter.

(a) All lectures, addresses, concerts, literary, theatrical and musical events and other entertainment and performances sponsored by, for the sole benefit of, or performed by local churches, schools, and educational, municipal and religious institutions are exempted from the provisions of this chapter. Such events sponsored by or performed by or for the benefit of local benevolent and fraternal associations and nonprofit civic associations are also exempt from the provisions of this chapter provided that attendance at the event is limited to members only.

(b) This chapter shall not apply to the owner of a billboard, illuminated sign or other contrivance used by him solely to advertise his business or maintained upon the premises in which his business is conducted, nor to any person engaged in business in the City distributing matter advertising only his own business.
(Code 1965, §11.01(5), Ord 57-09, §1, 4-28-09)

### Sec. 9-2. Fraudulent advertising.

No person shall, with intent to sell or dispose of real estate, merchandise, securities, service or anything offered by such person, publish or distribute any advertisement pertaining thereto which contains any assertion, representation or statement of fact which is untrue, deceptive or misleading.
(Code 1965, §11.01(7))

### Secs. 9-3 – 9-20. Reserved.

## ARTICLE II. LICENSES AND PERMITS GENERALLY

### Sec. 9-21. Generally.

Unless otherwise specifically provided, licenses and permits required for the carrying on of a business or trade within the City shall be applied for, issued, terminated and revoked according to the provisions of this article.
(Code 1965, §11.01(1))

### Sec. 9-22. Application.

(a) Every application for a license or permit shall be made upon a form furnished by the City Clerk and verified and shall contain the name, place of residence, age and occupation of the applicant and the purposes for which he proposes to carry on the business or trade to be licensed. A receipt of the Director of Finance showing a license or permit fee has been paid must be presented to the City Clerk with the application. Application filing deadlines shall be on file in the City Clerk's office.

(b) Providing false or inaccurate information on any application or in the investigation of any application may constitute an admission by the applicant that he or she is ineligible for such license and may be grounds for denial of the application.
(Code 1965, §11.01(2); Ord 4-93, §1, 1-6-93; Ord 2-94, §1, 1-5-94, Ord 129-03, §1, 8-12-03)

### Sec. 9-23. Issuance generally; display.

(a) Licenses and permits, when granted, shall be issued by the City Clerk and shall state the date thereof, the day from which the license or permit shall be in force, the name, place of residence and place of business of the person to whom the license or permit is issued, the particular purpose and the time for which issued and the amount of fee paid. The City Clerk shall keep all such applications on file and keep a record of all licenses and permits issued. Each license or permit issued shall be separately displayed on the premises or vehicle for which issued.

(b) The City Clerk shall be charged with the enforcement of all ordinances relating to licenses unless other provision is made by the Common Council for the enforcement.

(c) DELINQUENT DEBTS OWED TO THE CITY. The following are conditions precedent to the issuance of any licenses or permits provided under this code.

(1) The payment of all delinquent and unpaid personal property taxes and room taxes imposed pursuant to Wisconsin Statutes or this code and all other delinquent and unpaid claims of the

City including assessments, special charges, municipal utility charges, invoices or judgments due and owing from the applicant to the City at the time the license or permit is issued. The "applicant" includes a natural person, corporation, limited liability company, partnership, limited partnership, association, cooperative or any other entity making application for a license or permit in the name of that entity.

(2) The payment of all delinquent and unpaid personal property taxes and room taxes imposed pursuant to Wisconsin Statutes or this code and delinquent and unpaid claims of the City including assessments, special charges, municipal utility charges, invoices or judgments relating to the property or relating to the previously licensed business if the new license or permit is granted conditionally upon, or subsequent to, the sale or transfer of the business or stock in trade or furnishings or equipment of the premises or the sale or transfer of ownership or control of a corporation.
(Ord 83-15, §1, 10-27-15)

(d) Alleged errors in amounts claimed to be due the City may be appealed to the Finance Committee. The Committee shall have no authority to review any matter for which a review or appeal procedure has been provided by state statute or other ordinance. Within five (5) days of being informed of an amount claimed due, the person seeking review shall file a written notice of appeal with the Director of Finance stating the basis for the appeal and specifying the alleged error. Upon providing due notice, the Committee shall hold a hearing at which the applicant may be represented by counsel and both the City and the applicant shall have the opportunity to present witnesses, cross-examine witnesses and present other evidence pertaining to the claimed error. After holding the hearing, the Committee shall by majority vote make findings of fact and issue its conclusion regarding the alleged error. Any established error shall be promptly corrected.

(e) No license or permit shall be issued until the Director of Finance or designee thereof has notified the City Clerk in writing that all required payments have been made. (Code 1965, §11.01(3); Ord 73-91, §§2, 3, 8-7-91; Ord 4-93, §1, 1-6-93; Ord 84-08, §1, 5-27-08; Ord 70-10, §1, 5-11-10; Ord 125-11, §1, 5-10-11; Ord 15-14, §1, 4-22-14)

**Sec. 9-24. Licenses not requiring Council approval.**

Pawnbroker licenses, commercial solicitation licenses, charitable solicitation licenses, mechanical amusement device licenses, Christmas tree dealer licenses and special events may be issued automatically by the City Clerk without committee and Common Council approval, if all departments recommend approval.
(Code 1965, §11.02(4); Ord 3-94, §1, 1-5-94, Ord 102-02, §1, 7-9-02; Ord 58-09, §1, 4-28-09)

**Cross references -** Amusement devices, §9-126 et seq.; peddlers, solicitors, etc., §9-586 et seq.

**Sec. 9-25. Special issuance by Mayor.**

Whenever an applicant for a license or permit shall by his application make it appear that if he is entitled to such license or permit it ought to be issued before the next meeting of the Common Council, the Mayor may, except when otherwise specifically provided, by an order signed by him, direct the City Clerk to issue such license or permit, to be effective only until the next meeting of the Common Council, when the City Clerk shall report the application and the action thereon. The Common Council may then approve, modify or rescind such license or permit.
(Code 1965, §11.01(6))

**Sec. 9-26. Appeal of denial.**

If the investigating authority denies an application for a license or permit, the City Clerk shall forthwith notify the applicant by certified mail of the recommendation for denial and the reason therefor. The notice shall indicate that the applicant has the right to appeal the decision, but must contact the City Clerk's Office within thirty (30) days of receipt of the letter to schedule the appeal of the denial before the Safety and Licensing Committee. The Safety and Licensing Committee shall hear any person for or against the granting of the license or permit and shall report its recommendation to the Common Council, which shall grant or deny the license or permit.
(Ord 108-04, §1, 8-10-04; Ord 69-09, §1, 6-9-09; Ord 75-15, §1, 9-22-15)

**Sec. 9-27. Transfer; issuance to or use by agent or employee.**

No license or permit may be transferred unless otherwise provided by the ordinances of the City. No license or permit shall be issued to or used by any person acting as agent for or in the employ of another.
(Code 1965, § 11.01(11))

**Sec. 9-28. Expiration.**

Except where otherwise provided, every license or permit shall terminate or expire on June 30 of each year.
(Code 1965, §11.01(4))

**Sec. 9-29. Revocation or suspension.**

(a) ***Causes.*** Licenses or permits may be revoked or suspended by the Common Council for the causes provided

in this section unless otherwise provided by state statutes or the ordinances of the City:

(1) The violation by the licensee or permittee or his agent or employee of any law of the United States or of the state relating to the particular trade, occupation or business so licensed.

(2) The violation of this chapter or of any other ordinance, regulation or bylaw of the City relating to such particular trade, occupation or business, including, but not limited to, all plumbing, building, electrical and heating codes and parking lot regulations of this Code.

(3) The violation of any statute, ordinance or law, when the circumstances of the violation, arrest or conviction substantially relates to the licensed activity.

(b) ***Procedure.*** The manner of revocation or suspension shall be as follows:

(1) A complaint shall be made in writing by the Chief of Police or by any person to the Common Council. A copy of the complaint, accompanied by a notice or summons signed by the City Clerk stating the time and place when and where the complaint will be heard before the Common Council or a committee thereof shall be served on the licensee or permittee complained of. The summons shall command the licensee or permittee complained of to appear before the Common Council or a committee thereof on a day and place named in the summons, not less than three (3) days and not more than ten (10) days from the date of issuance, and show cause why his license or permit should not be revoked or suspended.

(2) At the time and place so named in such notice or summons, the accused may appear in person with or without counsel and shall be fully heard by the Common Council or a committee thereof in his defense on the complaint and the proof which may be submitted in support thereof. On motion of either interested party, the Common Council or committee in its discretion may adjourn the hearing from time to time. After such hearing, the Common Council or committee shall determine whether cause for revocation or suspension exists. If such cause is found to exist, the Common Council may revoke or suspend such license or permit.

(Code 1965, §11.01(8), (9))

**State law reference(s)--**Administrative procedures, W.S.A. §68.01 et seq.

**Sec. 9-30. Miscellaneous license fees.**

A license shall be required to exhibit, operate or conduct the following businesses. The fee for said license shall be on file with the City Clerk.

(1) Sale of cigarettes.

(2) Christmas tree dealers.

(3) Pawnbroker. W.S.A. §138.10 relating to pawnbrokers is hereby adopted and made a part of this section by reference.

(4) Pet stores (as defined in §3-1).

(5) Kennels (as defined in §3-1).

(Code 1965, §11.02(1); Ord 82-90, §1, 9-20-90; Ord 141-91, §1, 12-4-91; Ord 4-94, §1, 1-5-94. Ord 31-97, §1, 4-16-97; Ord 59-09, §1, 4-28-09)

**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; Christmas tree sales, §9-566 et seq.

**Sec. 9-31. Miscellaneous licenses.**

(a) The license fee for a carnival shall be on file in the City Clerk's Office. All applications for a license for a carnival or similar exhibition must be considered by the Common Council. No special license shall be issued.

(b) The license fee for a circus, including menagerie and sideshows under one (1) management, for one (1) day including the evening, shall be on file in the City Clerk's Office.

(c) Unless otherwise provided, all licenses granted and issued under this subsection are subject to the prior approval of the Common Council, and in determining the suitability of the license, consideration shall be given to the financial responsibility of the applicant, the appropriateness of the location and premises proposed, and, generally, the applicant's fitness for the trust to be reposed, together with the type and nature of the event in relation to demand for municipal services such as police, fire, inspection, sanitation and parking. The applicant may be required to post a cash bond or other security for the payment of the cost of required municipal services attributable to the event, together with a sufficient policy of insurance to cover damages to persons and property.

(d) Special events, as defined and governed by the Special Events Policy, shall be licensed. The license fees for a special event shall be on file in the City Clerk's Office. Penalties for holding a special event without a license, or violating the terms or conditions under which a license was applied for and granted, shall be set forth in §1-18.

(e) Those licenses not issued automatically pursuant to Section 9-24 shall be issued by the City Clerk upon approval of the Safety and Licensing Committee and the Common Council. The license fees are on file in the office of the City Clerk.
(Code 1965, §11.02(2); Ord 72-89, §1, 6-7-89; Ord 17-91, §1, 2-20-91; Ord 141-91, §1, 12-4-91; Ord 5-94, §1, 1-5-94; Ord 71-96, §1, 8-7-96; Ord 63-98, §1, 6-17-98, Ord 52-99, §1, 8-22-99, Ord 103-02, §1, 7-9-02, Ord 122-03, §1, 7-2-03; Ord 51-10, §1, 2-9-10; Ord 62-10, §1, 4-13-10)

**Sec. 9-32. Refund of fees; replacement fee.**

License and permit fees listed in this article, except those covered by Article III of this chapter, shall not be refunded upon denial or withdrawal of the license application. A replacement fee shall be charged for any lost license. Said fee amount shall be on file in the City Clerk's office.
(Code 1965, §11.02(3); Ord 6-94, §1, 1-5-94)

**Sec. 9-33. Walks, curbs and other concrete work license.**

(a) ***License required.*** No person shall construct or repair any concrete walk, curb and gutter, driveway or pavement in any public right-of-way unless a license is obtained pursuant to this section. Property owners repairing the sidewalks on their own property are not required to obtain a license.

(b) ***Application for license; issuance; term***. Any person required to be licensed under this section shall apply to the Department of Public Works for a license. The Department of Public Works shall issue an annual license to any qualified person. The license shall expire December 31 of each calendar year.

(c) ***License fee; bond and insurance***. No person shall engage in work under this section without the following conditions first being met:

(1) The applicant shall file with the Department of Public Works a license bond in the penal sum of five thousand dollars ($5,000.00) executed by the applicant as principal and a surety company authorized to do business in the State of Wisconsin, running in favor of the City so that in the event the City should suffer any loss or damage by any negligence, malfeasance or misfeasance in the conduct of the work performed under this section shall have the right to institute an action for recovery against the applicant and the surety upon such bond. The bond must further state that the applicant shall fully comply with all provisions of State law and City ordinances as applicable and that the applicant will save and indemnify the City against any costs, expenses or damages which may in any way accrue against the City due to the work performed under this section, and will keep the City harmless against all liabilities, judgments, costs and expenses as a consequence of the work.

(2) The applicant shall file with the City Clerk proof of workers compensation, automobile and general liability insurance equal to or greater than that required by the City and approved by the City's Risk Manager, and it shall be kept in full force and effect for one (1) year after the work has been completed.

(d) ***Revocation of license***. If a person holding a license violates any of the ordinances of the City relating to the construction of concrete improvements, the Common Council may, upon giving the offender two (2) days' notice, revoke his license. After the license has been revoked the licensee shall not again receive a license within three (3) months of the date of revocation.
(Code 1965, §5.13(1)--(4); Ord 7-94, §1, 1-5-94; Ord 70-09, §1, 6-9-09; Ord 91-10, §1, 6-22-10; Ord 103-16, §1, 12-13-16)

**Cross reference(s)--**Streets, sidewalks and other public places, ch. 16.

***Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; alcohol and other drug abuse prevention committee, §2-61 et seq.; possession of open container of alcoholic beverage on public property restricted, §10-14; possession of alcoholic beverages in parks and recreation areas restricted, §13-78.

**State law reference(s)**--Alcoholic beverage licenses, W.S.A. §125.01 et seq.; alcoholic beverage licenses authority, W.S.A. §125.12(1); non-intoxicating beverages and soda water, W.S.A. §66.0433.

**Secs. 9-34 – 9-50. Reserved.**

## ARTICLE III. ALCOHOLIC BEVERAGES*

### DIVISION 1. GENERALLY

**Sec. 9-51. Adoption of state law.**

(a) The provisions of W.S.A. Chapter 125 relating to the sale of fermented malt beverages and intoxicating liquors, except W.S.A. §125.03, §125.04(11), §125.05, §125.10, §125.11, §125.14, §125.15, §125.56, §125.60, §125.61, §125.62, §125.66(3) and §125.69, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of the statutes, are hereby adopted and made a part of this article by reference. A violation of any such provision shall be a violation of this article. The City elects to operate under W.S.A. §125.51(3)(b).

(b) The forfeiture provisions of §125.07(4)(bs), exclusive of any operating privilege suspension, is hereby adopted and made a part of this section by reference.
(Code 1965, §11.03(1); Ord 100-94, §1, 8-3-94)

**Sec. 9-52. Operation of premises licensed for retail sales.**

All class A and B retail licenses granted under this article shall be granted subject to the following conditions and all other conditions of this article, and subject to all other ordinances and regulations of the City applicable thereto:

(1) Every applicant procuring a license thereby consents to the entry of police or other authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from the premises of all things and articles there in violation of City ordinances or state laws and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offense.

(2) No retail licensee shall hire any person under twenty-one (21) years of age, except as modified by W.S.A. §125.07(4)(bm).

(3) No gambling or games of chance shall be permitted upon the licensed premises. Dice, slot machines, or any other devices of chance are prohibited and shall not be kept upon the premises, except those permitted by law.

(4) No premises for which a class B or class C retail license has been issued shall be permitted to remain open during the closing hours required by W.S.A. §125.32(3) or W.S.A. §125.68(4), and the premises shall be vacated during such hours.

(5) Each premises shall be conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used. Effective July 1, 2017, taverns serving no food shall obtain a municipal health permit from the Health Department on an annual basis, pursuant to Sec. 9-190. Additionally, the Board of Health may make reasonable rules for the sanitation of all places of business possessing licenses under this article. Such rules or regulations may be classified and made applicable according to the class of business conducted. All such rules and regulations shall have the same force as this article and infraction thereof may be punished as a violation of this article.
(Ord 78-16, §1, 11-8-16)

(6) A violation of this article by a duly authorized agent or employee of a licensee or permit holder shall constitute a violation by the licensee or permit holder.

(7) Class "A" retail licensees shall not sell, dispense, give away or furnish, directly or indirectly, fermented malt beverages for consumption off the premises between 12 midnight and 8:00 a.m., Central Standard Time. "Class A" retail licensees shall not sell, dispense, give away or furnish, directly or indirectly, intoxicating liquors including wine for consumption off the premises between 9:01 p.m. and 8:00 a.m., Central Standard Time.

(8) Class B or class C retail licensees shall not sell, dispense, give away or furnish directly or indirectly fermented malt beverages or intoxicating liquors for consumption off the premises between 12:01 a.m. and 8:00 a.m., Central Standard Time.

(9) ***Abandonment or non-use***. Any licensee granted or issued a license to sell alcohol beverages that abandons such business shall forfeit any right or preference the licensee may have to the holding or renewal of such license. Abandonment shall be sufficient grounds for revocation or non-renewal of any alcohol beverage license. In this section "abandon" and "abandonment" shall mean a continuing refusal or failure of the licensee to use the license for the purpose or purposes for which the license was granted by the city council for a period of one (1) year. The Common Council may, for good cause shown, extend such period.

(10) A retail class A, B or C license shall not be

granted to any applicant whereby the applicant had been convicted of selling alcoholic beverages without the proper retail license within the last eighteen (18) months.

(Ord 10-07, §1, 2-13-07; Ord 71-09, §1, 6-9-09; Ord 161-10, §1, 11-23-10; Ord 187-10, §1, 12-7-10)

**Sec. 9-53. Adoption of state law regarding sale of alcoholic beverages to intoxicated persons**.

W.S.A. §125.07(2) regarding the sale of alcohol beverages to intoxicated persons in violation of this article is hereby adopted by reference and made an offense punishable as a violation of this Code.

(Code 1965, §11.03(9)(a)--(c), (g), (i), (j), (l)--(n); Ord 122-91, §1, 11-6-91; Ord 98-96, §1, 11-20-96)

**Sec. 9-54. Demerit point system.**

(a) There is hereby established a point system for the purpose of guiding the Safety and Licensing Committee in the suspension or revocation of alcoholic beverage licenses. The number of demerit points is assigned according to the type of violation. This system is intended to identify habitually troublesome liquor licensees who repeatedly violate state statutes and/or City of Appleton ordinances and to take consistent action against such licensees.

(b) There is hereby assigned the following demerit points for each type of violation:

| TYPES OF VIOLATIONS | DEMERIT PIONTS (per violation) |
|---|---|
| Refusal to cooperate with Fire Chief, Police Chief or designees | 100 |
| Exceeding posted occupancy capacity | 80 |
| Exceeding posted occupancy capacity by more than 30% | 150 |
| Sale to person under age 21 | 80 |
| Person under age 21 on premises | 80 |
| Sale to intoxicated person | 80 |
| False statement on application | 70 |
| Operating while license is suspended | 200 |
| Unauthorized transfer/use of license | 90 |
| Conducting unlawful business | 150 |
| No licensed bartender on premises | 40 |
| Open after hours / failure to vacate | 50 |
| After hours carry-outs | 50 |
| Gambling / Gambling paraphernalia on premises | 150 |
| Nude or semi-nude entertainer / employee on premises | 150 |

| TYPES OF VIOLATIONS | DEMERIT PIONTS (per violation) |
|---|---|
| Failure to display license | 25 |
| Owner / Employee selling controlled substances | 150 |
| Illegal drug paraphernalia on premises | 100 |
| Other acts – failure to maintain order / disorderly conduct, noise complaints, etc. | 45 |
| ***Penalty enhancer for severe offenses*** | 100 |

*Enhanced penalty for conduct which*
*(1) results in bodily harm to any individual;*
*(2) creates a substantial risk of death or bodily harm:*
*(3) involves the use of a firearm or other dangerous weapon; or*
*(4) demonstrates an ongoing disregard for the requirements of state law or municipal ordinances*

| HEALTH CODE VIOLATIONS | DEMERIT POINTS (per violation) |
|---|---|
| Non-critical violation | 25 |
| Critical violation | 80 |

(c) ***Calculating violations.*** In determining the accumulated demerit points, the date of the violation is used as the basis for assigning demerit points per violation. Points shall be assigned only after conviction for violations.

(d) ***Suspension and revocation of license.*** The Police Department shall notify the Safety and Licensing Committee of any convictions which result in the assessment of demerit points against any licensee. Following this notification, or the filing of a complaint pursuant to W.S.A. §125.12, the Committee shall hold a hearing if required by W.S.A. §125.12 or this section, and shall take the following action, after first determining the number of demerit points to be assessed against the licensee:

(1) For demerit points totaling 25-149 within a 12-month period, a warning to the licensee of the consequences of additional violations.

(2) For demerit points totaling 150-199 within a 12-month period, suspension of the license for a period of not less than ten (10) days nor more than ninety (90) days.

(3) For demerit points totaling two hundred (200) or more within an 18-month period, revocation of the license. Whenever any license is revoked,

at least six (6) months from the time of such revocation shall elapse before another license shall be granted for the same premises, and twelve (12) months shall elapse before any other license shall be granted to the person whose license was revoked.

(e) ***Scope.*** Nothing in this section shall be construed to conflict with, abridge or modify, the rights or procedures established for revocation or suspension of licenses in W.S.A. §125.12. Notwithstanding the requirements of this section, the Safety and Licensing Committee may require the appearance before it of any licensee at any time.

(f) ***Transfer/sale of licensed business.*** Upon the transfer or sale of the licensed business, all accumulated demerit points shall be canceled unless any of the following apply:

(1) The new licensee is related to the former licensee by blood, adoption or marriage;

(2) The new licensee held a business interest in the previous licensed business, real estate or equipment

(3) The former licensee or an individual related to the former licensee by blood, adoption or marriage retains an interest in the business, real estate or equipment used by the business;

(4) The new licensee's acquisition of the business did not involve an arm's length transaction consisting of an open market sale in which the owner is willing, but not obligated to sell, and the buyer is willing, but not obligated to buy.

If any of the above apply, the new licensee shall inherit the demerit points previously assessed and be subject to the penalties set forth in the code.
(Ord 29-97, §1, 4-2-97; Ord 56-98, §1, 5-20-98, Ord 126-03, §1, 7-22-03, Ord 108-04, §1, 8-10-04; Ord 72-09, §1, 6-9-09)

**Sec. 9-55. Quadricycles.**

No person may consume a fermented malt beverage while a passenger on a commercial quadricycle, as that term is defined in §340.01(8m), Wis. Stats. within the city of Appleton.

**Secs. 9-56 – 9-70. Reserved.**

## DIVISION 2. LICENSES

**Sec. 9-71. Persons requiring license.**

No person, except as provided by §9-51, shall distribute, vend, sell, offer or keep for sale at retail or wholesale, deal or traffic in, or for the purpose of evading any law or ordinance give away any intoxicating liquor or fermented malt beverage, or cause such acts to be done, without having procured a license or permit as provided in this article, nor without complying with all the provisions of this article and all statutes, ordinances and regulations of the state and City applicable thereto.
(Code 1965, §11.03(2)(a))

**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 9-72. Separate license required for each place of sale.**

A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in direct connection or communication with the place where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale.
(Code 1965, §11.03(2)(b))

**Sec. 9-73. Issuance for residential premises.**

No license shall be issued to any person for the purpose of possessing, selling or offering for sale any intoxicating liquor or fermented malt beverage in any dwelling house, flat or residential apartment.
(Code 1965, §11.03(2)(b))

**Sec. 9-74. Application.**

Application for license to sell or deal in fermented malt beverages or intoxicating liquors shall be made in writing on the forms prescribed by law, shall be sworn to by the applicant as provided in W.S.A. §887.01 through §887.04, and shall be filed with the City Clerk not later than April 15, per W.S.A. §125.51(1)(c). Application for an operator's license shall be made pursuant to W.S.A. §125.04.
(Code 1965, §11.03(5))

**Sec. 9-75. Classes of licenses; fees.**

(a) There shall be the following classes of licenses, which, when issued by the City Clerk under the authority of the Common Council, after payment of the fee, the amount of which is on file in the City Clerk's Office, shall permit the holder to sell, deal or traffic in intoxicating liquor or fermented malt beverages as provided in W.S.A. §125.25, §125.26, §125.27, §125.28 and §125.51.

(1) Class "A" fermented malt beverage retail

license.

(2) Class "B" fermented malt beverage retail license.

(3) "Class A" intoxicating liquor retail license.

(4) "Class B" intoxicating liquor retail license.

a. If the City has granted or issued a number of licenses equal to or exceeding the quota established under W.S.A. §125.51, the City may still issue a license for any of the following:

1. A full service restaurant that has seating for three hundred (300) or more persons.

a. The principal business during all hours of operation must be that of a restaurant which serve meals that are primarily prepared individually and served to customers at their table by waitstaff.

b. At any given time, three hundred (300) or more persons must be able to be seated for meal service.

c. The seating area shall not include outdoor seating, any bar area or any area regularly used for entertainment.

d. The business shall only be held out and advertised to the public as a restaurant.

e. Any establishment representing itself as a full service restaurant under this subsection shall maintain that status throughout the license period. If the establishment does not maintain its status, the license shall be revoked or not renewed. The burden is on the license holder to provide evidence that the principal business is a full service restaurant that has seating for three hundred (300) or more persons.

2. A hotel that has fifty (50) or more rooms of sleeping accommodations and that has either an attached restaurant with seating for one hundred fifty (150) or more persons or a banquet room in which banquets attended by four hundred (400) or more persons may be held.

a. At any given time, one hundred fifty (150) or more persons must be able to be seated for meal service in any attached restaurant.

b. The seating area for a restaurant shall not include outdoor seating, any bar area or any area regularly used for entertainment.

c. Any establishment representing itself under this subsection shall maintain that status throughout the license period. If the establishment does not maintain its status, the license shall be revoked or not renewed. The burden is on the license holder to provide evidence that the principal business is a hotel that has fifty (50) or more rooms of sleeping accommodations and that the hotel has either an attached restaurant with seating for one hundred fifty (150) or more persons or a banquet room in which banquets attended by four hundred (400) or more persons may be held.

3. An opera house or theater for the performance arts operated by a nonprofit organization as defined in W.S.A. §134.695(1)(am).

a. The sale of intoxicating beverages shall only be for consumption on the premises and only in connection with ticketed performances.

b. Any establishment representing itself under this subsection shall maintain that status throughout the license period. If the establishment does not maintain its status, the license shall be revoked or not renewed. The burden is on the license holder to provide evidence that the principal business is an opera house or theater for the performance of arts operated by a nonprofit organization.

(5) Reserve "Class B" intoxicating liquor retail license.

a. The number of reserve "class B" intoxicating liquor licenses shall be determined pursuant to W.S.A. §125.51(4)(br).

b. A reserve "class B" license cannot be transferred to another place or premises.

(6) "Class C" wine retail license.

(7) Provisional retail license.

a. A provisional retail license may be issued by the City Clerk to a person who has applied for a Class "A", Class "B" or "Class C" license and authorizes only the activities that the type of retail license applied for authorizes.

b. A provisional license may not be issued to any person who has been denied a retail license.

c. The provisional license expires sixty (60) days after its issuance, when a license under subsection a. is issued to the applicant or upon written notice that the Common Council denied the applicant a license, whichever is sooner.

d. Persons are limited to one (1) provisional license for each type of license applied for by the holder per year.

(8) Wholesaler's fermented malt beverage license.

(9) Picnic license. A single meeting license may be issued to eligible organizations pursuant to W.S.A. §125.26(6) for a fee of ten dollars ($10.00). Said license may be issued by the City Clerk upon approval of the appropriate departments and the Safety and Licensing Committee, and after the application has been on file in the City Clerk's office for ten (10) business days. Any application requesting an open concept license must be approved by the Common Council.

(10) Operator's license.

a. An operator's license shall be valid for a two- (2-) year period and shall expire on June 30.

b. The Clerk shall issue a photo identification card for operator's licenses. Lost or stolen licenses may be replaced for a fee, the amount of which is on file in the City Clerk's Office.

c. Each new applicant or each applicant who failed to renew the license shall successfully complete an approved bartender's awareness program prior to the issuance of an operator's license, unless the applicant meets one of the requirements listed on W.S.A. §125.185(6).

(Ord 56-16, §1, 9-13-16)

(11) Provisional operator's license.

a. A provisional operator's license may be issued by the City Clerk to a person who has applied for a beverage operator's license under subsection (10) above.

b. A provisional license may not be issued to any person who has been denied an operator's license.

c. The provisional license expires sixty (60) days after its issuance, when a license under subsection a. is issued to the applicant or upon written notice that the Common Council denied the applicant a license, whichever is sooner.

d. Persons are limited to one (1) provisional license per year.

(12) Temporary operator licenses.

a. A temporary operator's license may be issued only to operators employed by, or donating their services to, nonprofit corporations. This license may be issued by the City Clerk to a person who has applied for a temporary beverage operator's license and conforms to the requirements under subsection (10)(c) above.

b. A temporary operator's license shall be valid for any period of one (1) day to fourteen (14) days and the period for which it is valid shall be stated on the license.

c. No person may hold more than two (2) kinds of this license per year.

(13) Clubs as defined in W.S.A. §125.27.

(b) ***Deposit of fee; refunds***. License fees required under

this section shall be deposited with the Director of Finance at the time of application and shall be nonrefundable; except that, in the case of a Class A and Class B license applications, nonrefundable fees, the amount of which is on file in the office of the City Clerk, for processing and the applicable rate for publication of the application as provided in W.S.A. §125.04(3)(g) shall be deposited at the time of application, the remainder of the applicable license fee to be deposited no sooner than fifteen (15) days before issuance.

(c) All license fees for the sale of intoxicating liquor shall be deposited with the Director or Finance at least fifteen (15) days prior to the date the license is to be issued, except for those applicants seeking licenses effective July 1 of any year may make payment of such license fees in cash or by money order if such payment is made and received by the City Clerk's Office on or before June 30 or last business day, whichever is sooner, and such applicant pays a late renewal filing fee per day in an amount on file with the City Clerk for each day such license fee is not paid within said fifteen (15) days prior to issuance.

(d) ***Proration of fee***. Licenses may be granted which shall expire on June 30 of each year upon payment of such proportion of the annual license fee as the number of months or fraction of a month remaining until June 30 of each year bears to twelve (12). This section only applies to licenses with an annual cost in excess of one hundred dollars ($100.00).
(Code 1965, §11.02(1)(b)(11), 11.03(3); Ord 76-90, §1, 9-5-90; Ord 91-90, §1, 10-4-90; Ord 109-90, §1, 12-5-90; Ord 74-91, §1, 8-7-91; Ord 96-91, §1, 9-18-91; Ord 82-92, §§1, 2, 8-5-92; Ord 4-93, §1, 1-6-93; Ord 8-94, §1, 1-5-94; Ord 44-01, §1, 2-12-01; Ord 163-07, §1, 12-25-07; Ord 73-09, §1, 6-9-09; Ord 35-11, §1, 2-8-11; Ord 124-12, §1, 11-27-12)

**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 9-76. Restrictions on issuance.**

(a) No license shall be granted to any person who does not meet the requirements of W.S.A. §125.04(5).

(b) No class B retail license shall be granted for any premises where any other business is to be conducted in connection with the premises, except that such restriction shall not apply to a hotel, to a restaurant not a part of or located in any mercantile establishment, to a combination grocery store and tavern, to a novelty store and tavern, to a bowling alley or recreation premises, or to a bona fide club, society or lodge that has been in existence for not less than six (6) months prior to the date of filing application for such license.

(c) No class A or B retail license shall be issued to any person acting as agent for or in the employ of another, except that for class B retail licenses this restriction shall not apply to a hotel nor to a restaurant not a part of or located in or upon the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for not less than six (6) months prior to the date of application. Such license for a hotel, restaurant, club, society or lodge may be taken in the name of an officer or manager, who shall be personally responsible for compliance with all of the terms and provisions of this article.

(d) W.S.A. §125.04(6), relating to the issuance of licenses to domestic or foreign corporations shall apply to the issuance of class "B" fermented malt beverage and "class B" intoxicating liquor retail licenses.

(e) No license shall be granted to any person under twenty-one (21) years of age, except as modified by W.S.A. §125.04(5)(d)2.

(f) No license shall be issued for operation on any premises upon which taxes or assessments or other financial claims of the City are delinquent or unpaid. It shall be the duty of the City Clerk to enforce this provision, in accordance with §9-23(b) of this code.

(g) No license shall be granted to or for any building, room or place in the City wherein for a second time any of the provisions of this article or other provisions of any ordinance relating to the sale, manufacture or possession of fermented malt beverages or intoxicating liquors are violated and the violator convicted therefore, for a period of one (1) year from and after the date of such second violation.

(h) Each premises for which a class B retail license is granted shall be connected with City water and sewage facilities and shall be properly lighted and ventilated and supplied for each sex with separate sanitary toilet and lavatory facilities equipped with running water.
(Code 1965, §11.03(4); Ord 73-91, §§1, 2, 8-7-91; Ord 74-09, §1, 6-9-09)

**Sec. 9-77. Investigation of applicant for class B license.**

(a) ***Generally***. The City Clerk shall notify the Chief of Police, Health Officer, Fire Chief, Director of Community Development, Inspection Supervisor and the Director of Finance of each application for a retail class B license. These officers shall inspect or cause to be inspected each application for a retail class B license and the premises, insofar as the application relates to their respective departments, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the

applicant is a proper recipient of a license. These officials shall each furnish the City Clerk in writing the information derived from each investigation, accompanied by approval or disapproval as to whether a license should be granted or refused. The City Clerk shall submit this information to the Safety and Licensing Committee of the Common Council for a recommendation to the Common Council for approval or disapproval.

(b) ***Renewals.*** No license shall be renewed without a reinspection of the premises and a report as originally required. In determining the suitability of an applicant, consideration shall be given to the financial responsibility of the applicant, the appropriateness of the location and premises proposed, and, generally, the applicant's fitness for the trust to be reposed.
(Code 1965, §11.03(6); Ord 32-92, §1, 3-18-92; Ord 4-93, §1, 1-6-93; Ord 173-93, §1, 10-19-93; Ord 176-93, §1, 10-19-93; Ord 121-96, §1, 12-18-96, Ord 108-04, §1, 8-10-04))

**Sec. 9-78. Granting; term; transfer.**

Opportunity shall be given by the Common Council to any person to be heard for or against the granting of any license under this division. Upon the approval of the application by the Common Council, the City Clerk shall, upon the filing by the applicant of a receipt showing the payment of the required license fee to the Director of Finance, issue a license to the applicant. Each license shall be numbered in the order in which it is issued and shall contain the date of issuance, the fee paid and the name of the licensee. All licenses shall remain in force through June 30 after the granting thereof, unless sooner revoked. No license shall be transferable either as to licensee or location, except as provided by W.S.A. §125.04(12), and except that the Common Council may authorize a transfer of location if the licensed premises become unsuitable for occupancy.
(Code 1965, §11.03(7); Ord 4-93, §1, 1-6-93)

**Sec. 9-79. Appeal of denial.**

If the investigating authority denies an application for a license or grant under this division, the City Clerk shall forthwith notify the applicant by certified mail of the recommendation for denial and the reason therefor. The notice shall indicate that the applicant has the right to appeal the decision but must contact the City Clerk's Office within thirty (30) days of receipt of the letter to schedule the appeal before the Safety and Licensing Committee. The Safety and Licensing Committee shall hear any person for or against the granting of the license or grant and shall report its recommendation to the Common Council, which shall grant or deny the license or grant.
(Ord 45-01, §1, 2-12-01, Ord 108-04, §1, 8-10-04; Ord 75-09, §1, 6-9-09; Ord 76-15, §1, 9-22-15)

**Sec. 9-80. Posting; duplicates.**

(a) Every license and permit issued under this division shall be posted while in force in a conspicuous place in the room or place where fermented malt beverages or intoxicating liquors are kept for sale. No person shall post such license or permit or be permitted to post such license or permit upon premises other than those mentioned in the application, knowingly deface or destroy such license or permit, or remove such license or permit without the consent of the licensee or permit holder.

(b) Whenever a license or permit is lost or destroyed without fault of the holder or his agent or employee, a duplicate in lieu thereof under the original application shall be issued by the City Clerk on satisfying himself as to the facts, upon the payment of a fee, the amount of which is on file in the office of the City Clerk.
(Code 1965, §11.03(8); Ord 9-94, §1, 1-5-94)

**Sec. 9-81. Revocation.**

Any license issued under this division for the sale of fermented malt beverages or intoxicating liquors may be revoked under §9-29, §9-54 or W.S.A. §125.12. No license fee shall be refunded where a license is revoked. Whenever any license is revoked, at least six (6) months from the time of such revocation shall elapse before another license shall be granted for the same premises, and twelve (12) months shall elapse before any other license shall be granted to the person whose license was revoked.
(Code 1965, §11.03(10); Ord 76-09, §1, 6-9-09)

**Sec. 9-82. Improper exhibitions.**

(a) It shall be unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:

(1) Expose his/her genitals, pubic area, perineum, anus, anal cleft or cleavage, anal region or pubic hair region with less than a fully opaque covering; or

(2) Expose any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, perineum, anal region or pubic hair region; or

(3) Exposes any portion of the female breast below a point immediately above the top of the areola thereof; or

(4) Show the covered male genitals in a discernibly turgid state; or

(5) To engage in or simulate sexual intercourse and/or sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

(b) For the purposes of this ordinance, the term "licensed premises" means any establishment licensed by the common council of the City of Appleton to sell alcohol beverages pursuant to Ch. 125, Stats. The term "licensee" means the holder of a retail "Class A", "Class B", Class "B", Class "A", "Class C" license granted by the Common Council of the City of Appleton pursuant to Ch. 125, Stats.

(c) The provisions of this ordinance do not apply to the following licensed premises: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

(d) Any person, partnership or corporation who violates any of the provisions of this ordinance shall be subject to penalty as prescribed in §1-18 of this Municipal Code, in addition to liquor license suspension, revocation or renewal as provided by §9-29 of the Code and by §125.12, Wis. Stats. A separate offense shall be deemed committed on each day of which a violation occurs or continues.

(e) If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.
(Ord 95-95, §1. 9-20-95)

**Secs. 9-83 - 9-100. Reserved.**

## ARTICLE IV. AMUSEMENTS AND ENTERTAINMENT*

### DIVISION 1. GENERALLY

**Secs. 9-101 - 9-125. Reserved.**

### DIVISION 2. MECHANICAL AMUSEMENT DEVICES**

**Sec. 9-126. Definition.**

For purposes of this division, a mechanical amusement device is a machine which upon the insertion of a coin or slug operates a game, contest or amusement, except music. A billiard table or pool table is a mechanical device for purposes of this division when operated commercially, whether it is coin-operated or not.
(Code 1965, §11.11(1))

**Cross reference--**Definitions & rules of construction generally, §1-2.

**Sec. 9-127. Licenses generally.**

No person shall operate a mechanical amusement device, pool table or billiard table within the City without first obtaining the required licenses therefore from the City Clerk pursuant to §9-21 et seq. The City Clerk may issue such licenses upon compliance with this division and payment of the required fee. The annual license fee amount shall be on file in the office of the City Clerk.
(Code 1965, §11.11(2); Ord 77-09, §1, 6-9-09)

**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

***Cross reference(s)--**Permits required for certain amusements, §9-31; issuance of license, §9-2 et seq.

**State law reference--**Amusement places, license and regulation, W.S.A.§175.20.

****Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; issuance of license, §9-21 et seq.

**Sec. 9-128. Reserved.**

**Editor's Note**: Sec. 9-128, Machine license, was repealed by Ord 78-09, §1, 6-9-09.

**Sec. 9-129. Form of license; posting of license.**

The form of the license issued under this division shall be as the City Clerk may determine. The license shall be posted on the premises near where such amusement device is in operation and shall specify the number of devices licensed for the particular place.
(Code 1965, §11.11(5))

**Secs. 9-130 – 9-150. Reserved.**

## ARTICLE V. CABLE TELEVISION SERVICE*

**Sec. 9-151. Short title.**

This article shall be known as the Appleton Cable Communications Ordinance.

**Sec. 9-152. Purposes.**

The purpose of this article is to:

(1) Provide for the franchising and regulation of cable television systems within the City of Appleton; and

(2) Provide for the payment of a fee and other valuable consideration to the City for the use of City streets and other public ways in the construction and operation of cable television systems and to compensate the City for costs associated therewith; and

(3) Provide for the development of cable television as a means to improve communication between and among the citizens and public institutions of the City; and

(4) Provide remedies and prescribe penalties for violation of this article and the franchise(s) granted hereunder.

**Sec. 9-153. Definitions.**

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein, unless the context clearly indicates that another meaning is intended. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.
(Ord 136-88, §1, 11-2-88)

***Agency*** means the person, department or agency designated by the City Council to act in matters related to cable television. In the absence of any specific designation by Council, the Mayor or her designate shall act as the agency.

***Auxiliary services*** means any communications services in addition to "regular subscriber services" including, but not limited to, services for which a per-person or per-channel charge is made, pay TV, burglar alarm services, data or other electronic transmission services, facsimile reproduction services, meter reading services and home shopping services, interactive two-way services and any other service utilizing any facility or equipment of a cable

television system operating pursuant to a franchise granted under this article.

***Cable television system*** means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service over the public right-of-way which includes video programming and which is provided to multiple subscribers within a community, but such a term does not include (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (2) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless such facility or facilities uses any public right-of-way; (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of this Act, except that such facility shall be considered a cable system (other than for purposes of §621(c)) to the extent such facility is used in the transmission of video programming directly to subscribers; or (4) any facilities of any electric utility used solely for operating its electric utility systems.

***Channel*** is a band of frequencies, six (6) megahertz wide in the electro-magnetic spectrum, capable of carrying either one audio-visual television signal and a few non-video signals or a large number of non-video signals.

***Converter*** means an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and with an appropriate channel selector, also permits a subscriber to view all signals delivered at designated dial locations.

***Council*** means the Common Council of the City of Appleton or the designated committee of jurisdiction.

***Federal Communications Commission or FCC*** means the present federal agency of that name as constituted by the Communications Act of 1934, or any successor agency created by the United States Congress.

***Franchise*** means an initial authorization or renewal thereof (including a renewal of an authorization which has been granted pursuant to §9-155(e) of this article) issued by the franchising authority.

***Franchising authority*** means the City of Appleton.

***Franchise area*** means that portion of the City for which a franchise is granted under the authority of this article. If not otherwise stated in the franchise, the franchise area shall be the corporate limits of the City.

***Grantee*** means the natural person, partnership, domestic or foreign corporation, association, joint venture or organization of any kind granted a franchise by the Council under this article and its lawful and approved successor, transferee or assignee.

***Gross revenues*** means all receipts derived directly or indirectly from operation or use of all or part of a cable television system franchised pursuant to this article by the grantee and its subsidiaries including, but not limited to, revenue from basic subscriber fees, premium channel fees, pay-per-view performance fees, equipment rentals and connection fees; provided, however, that this shall not include any taxes on services furnished by the grantee herein imposed directly on any subscriber or user by the state, local or other governmental unit and collected by the grantee on behalf of said governmental unit or separate revenues of affiliates of a parent company not attributable to the parent company's local cable operation.

***Net profit*** means the amount remaining after deducting from gross revenues all of the actual, direct and indirect, expenses associated with operating the cable television system including the franchise fee, interest, depreciation and federal or state income tax.

***Person*** means an individual, partnership, association, joint stock company, trust, corporation or governmental entity.

***Public way*** means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkways, waterways or other public right-of-way including public utility easements or rights-of-way and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City which shall entitle the City and the grantee to the use thereof for the purpose of installing and maintaining the grantee's cable television system.

***Regular subscriber service*** means the distribution to subscribers of signals over the cable television system the FCC requires the grantee to carry.

***Schools*** means all public educational institutions, including elementary and secondary schools, junior colleges, colleges and universities and other educational institutions where the City and grantee jointly agree to provide service.

***Subscriber*** means any person who pays for the regular subscriber services and/or any one or more of such other services as may be provided by the grantee's cable television system, and does not further distribute such service(s).

***Two-way service*** means the subscriber or any other location shall have the capability to choose whether or not to respond immediately or by sequential delay utilizing any type of terminal equipment whatever, by push-button code, dial code, meter, voice, video including, but not limited to,

audio and video, electrical or mechanically-produced signal, display and/or interrogation.

***User*** means a person or organization utilizing a system channel or system equipment and facilities for purposes of production and/or transmission of materials, as contrasted with receipt thereof in a subscriber capacity.

**Sec. 9-154. Grant of authority.**

(a) ***Requirement of a franchise***. No person, firm, company, corporation or association shall construct, install, maintain or operate a cable television system within the City, or within any other public property of the City, unless a franchise has first been obtained pursuant to the provisions of this article, and unless such franchise is in full force and effect. Such franchise shall not take the place of any other license or permit which may be legally required of the grantee in order to conduct such a business, or construct or install buildings, structures, facilities or equipment within the City.

(b) ***Franchise applications.***

(1) After receiving applications for a franchise, the City, after considering the legal, financial, technical and character qualifications of the applicants, may grant one or more non-exclusive franchises creating a right to construct and operate a cable television system within the public ways of the City. Franchise(s) may be granted to the applicant(s) which in the City's judgment may best serve the public interest; provided, however, no provision of this article shall be deemed or construed as to require the City to grant a franchise.

(2) The application for an initial cable television franchise shall be submitted to the Council or its designee, on a written application form furnished by the City, and in accordance with procedures and schedules established by the City. The application form may request facts and information the City deems appropriate. Applications shall be accompanied by a nonrefundable application fee in an amount determined by the City, which amount shall be used by the City to offset direct expenses incurred in the franchising and evaluation procedures, including, but not limited to, staff time and consulting assistance.

(3) An applicant (grantee) to whom the Council grants a non-exclusive franchise shall, in addition to the nonrefundable fee specified herein above, pay to the City at the time the grantee files the written instrument specified in §9-158(c), an amount to be determined by the Council to be used to offset all direct, reasonable costs incurred by the City in granting the franchise not defrayed by fees forthcoming from the provisions of paragraph (2) of this section.

(4) After passage of this article, no cable operator shall be granted a franchise by the City in which terms and conditions differ materially from those set forth in this article. In the event that the City grants a non-identical franchise to another cable operator, grantee shall have the right to comply instead with any less stringent terms and conditions of the subsequent franchise and to receive other appropriate adjustments in the event there is no economically reasonable way for the grantee to reduce its franchise requirements to less stringent levels.

**Sec. 9-155. Franchise conditions.**

(a) ***Franchise term and non-exclusivity***. The term of an original franchise shall not be more than ten (10) years from the date the franchise is accepted by the grantee. The term of a renewed franchise shall be no more than fifteen (15) years. No franchise granted pursuant to this article shall give any exclusive right to a grantee and every such franchise shall be deemed to reserve the right to grant other franchises to use and occupy the public ways of the City for cable television pursuant to the provisions of this article.

(b) ***Notice to the grantee***. Except as otherwise provided in this article, the Council shall not meet to take any final action involving the review, renewal, revocation or termination of the grantee's franchise unless the City has (1) advised the grantee in writing, at least thirty (30) days prior to such meeting, as to its time, place and purpose; and (2) published a notice, at least once, ten (10) days before the meeting in a newspaper of general circulation within the City. The cost of such notification shall be borne by the City.

(c) ***Modification of franchise obligations***. The provisions of §625 of the Cable Communications Policy Act of 1984 (as it may hereinafter be modified or amended) are adopted by reference and made a part of this article with the same force and effect as though set forth herein.

(d) ***Performance evaluation session.***

(1) The Council and the grantee shall hold scheduled performance evaluation sessions within thirty (30) days of the third, sixth and ninth anniversary dates of the grantee's award of the franchise and as required by federal and state law. All such evaluation sessions shall be

open to the public. The City shall be solely responsible for notifying the grantee, in writing, at least sixty (60) days in advance, of each of the specified performance evaluation sessions. In addition, either party may request a special evaluation session.

(2) All evaluation sessions shall be open to the public and announced by the City Council in a newspaper of general circulation in accordance with the notice requirements of paragraph (b) of this section. Grantee shall notify subscribers of all evaluation sessions by announcement on at least one (1) appropriate channel on the system between the hours of 9:00 a.m. and 9:00 p.m. for five (5) consecutive days preceding each session.

(3) Topics which may be discussed at any scheduled or special evaluation session may include, but not be limited to, franchise fees, penalties, free or discounted services, applications of new technologies, system performance, services provided, programming offered, customer complaints, judicial and FCC rulings, line extension policies and grantee or Council rules.

(4) During a review and evaluation by the Council, the grantee shall fully cooperate with the Council and shall provide such relevant information and documents as the Council may need to reasonably perform its review.

(5) If at any time during its review, the Council determines that reasonable evidence exists of inadequate cable system performance, it may require the grantee to perform tests and analyses directed toward the suspected inadequacies. The grantee shall fully cooperate with the Council in performing such testing and shall prepare results and a report if requested within thirty (30) days after notice. Such a report shall include the following information:

a. The nature of the complaint or problem which precipitated the special tests:

b. What system component was tested;

c. The equipment used and procedures employed in testing;

d. The method, if any, in which such complaint or problem was resolved;

e. Any other information pertinent to said tests and analyses which may be required.

f. The City may require the test to be supervised by a professional engineer not on the permanent staff of the grantee. Any expense for said supervision shall be jointly shared by the City and the grantee.

(6) The City's right under this paragraph shall be limited to requiring tests, analyses and reports covering specific subjects and characteristics based on said complaints or other evidence when and under such circumstances as the City has reasonable grounds to believe that the complaints or other evidence require that test be performed to protect the public against substandard cable service.

(e) ***Franchise renewal***. Renewal of this franchise shall be governed by applicable federal law.

(f) ***Franchise revocation procedures.***

(1) Whenever a grantee shall refuse, neglect or willfully fail to construct, operate or maintain its cable television system or to provide service to its subscribers in substantial accordance with the terms of this article and the franchise, or to comply with the conditions of occupancy of any public ways, or to make required extensions of service, or in any other way substantially violate the terms and conditions of this article, the franchise, or any applicable rule or regulation, or practices any proven fraud or deceit upon the City or its subscribers, or fails to pay timely franchise fees or other payments, such as real estate or personal property taxes dues to the City, or if a grantee becomes insolvent, or unable to or unwilling to pay its uncontested debts, or is adjudged bankrupt or seeks relief under the bankruptcy laws, then the franchise may be subject to revocation pursuant to existing rules of the Council.

(2) In the event the City believes that grounds for revocation exist or have existed, the City shall notify a grantee, in writing, setting forth the nature and facts of such noncompliance. If, within sixty (60) days following such written notification, the grantee has not furnished reasonably satisfactory evidence that corrective action has been taken or is being actively and expeditiously pursued, or that the alleged violations did not occur, or that the alleged violations were beyond the grantee's control, the City shall thereupon refer the matter to the Common Council. Upon good cause shown as determined by the Council, the grantee shall receive an extension of the sixty- (60-) day time

limit contained herein.

(3) The Council shall not revoke a franchise pursuant to subparagraph 1 of this section until it has given notice to the grantee that it proposes to take such an action and the grounds therefore. In any revocation hearing held by the Council, both the grantee and the City shall be afforded fair opportunity for full participation, including the right to introduce evidence and to question witnesses. The revocation hearing shall be conducted pursuant to Wisconsin Rules of Evidence and a transcript of proceeding shall be made. Grantee shall have the right to appeal an adverse decision to a circuit court of competent jurisdiction.

(4) A grantee shall not be subject to the sanctions of this section for any act or omission wherein such act or omission was beyond the grantee's control. An act or omission shall not be deemed to be beyond the grantee's control if committed, omitted, or caused by a corporation or other business entity, which holds a controlling interest in the grantee, whether held directly or indirectly. Further, the inability of a grantee to obtain financing, for whatever reason, shall not be an act or omission which is "beyond the grantee's control."

(5) The termination of a grantee's rights under a franchise shall in no way affect any other rights the City or grantee may have under the franchise or under any provision of law.

(6) Upon lawful revocation of the franchise, grantee shall be required to remove all aerial equipment or at its option to transfer, by sale or lease, its cable system to a third party within six (6) months of the Council's notification of revocation.

(g) ***Franchise fee.***

(1) The grantee, in consideration of the privilege granted under the franchise for the operation of a cable television system within the public ways of the City, and the expense of regulation pursuant to the franchise incurred by the City, shall pay to the City four percent (4%) of its annual gross receipts during the period of its operation under the franchise; or the maximum amount as may be set from time to time by controlling federal or state law, if such maximum is less than four percent (4%). Said fee may be subject to renegotiation upon agreement by both parties at such time as applicable laws and regulation permit; provided, however, no such negotiated franchise fee shall be greater than five percent (5%) of gross receipts.

(2) The grantee shall file with the City within thirty (30) days after the expiration of the grantee's franchise year, a gross receipts statement clearly showing the gross receipts received by the grantee during the previous franchise year, and shall simultaneously tender payment of the annual franchise fee. The grantee shall also file, upon request by the City, within one hundred fifty (150) days following the conclusion of each calendar year during which the franchise period is in effect (franchise year), an annual report prepared and audited by a certified public accountant acceptable to the City, clearly showing the yearly total gross receipts. The City, at its option, may accept an unaudited gross receipts report prepared by the grantee.

(3) The City shall have the right consistent with the provision of §9-156 herein, to inspect the grantee's revenue records, the right of audit and the recomputation of any amounts determined to be payable under this article. Any additional amount due the City as a result of the audit shall be paid within thirty (30) days following written notice to the grantee by the City, which notice shall include a copy of the audit report. The cost of the audit shall be borne by the grantee if it is properly determined that the grantee's annual payment due the City for the preceding year is increased thereby by more than five percent (5%).

(4) In the event that any franchise payment or recomputed amount is not made on or before the applicable dates heretofore specified, interest shall be charged from said due date at the rate of one percent (1%) per month.

(h) ***Insurance; bonds; indemnity.***

(1) Upon the granting of a franchise and within thirty (30) days following the filing of the acceptance required under §9-158(c) hereof and at all times during the term of the franchise, including the time for removal of facilities or management as a trustee as provided for herein, the grantee shall provide the City with a certificate of insurance, evidencing:

a. A comprehensive general liability policy indemnifying, defending, and saving harmless the City, its officers, boards, commissions, councils, agents or employees from any or all third party

claims for loss or damage for personal injury, death and property damage occasioned by the operations of the grantee under this franchise in the minimal amount of one million dollars ($1,000,000) per occurrence, combined single limit, for bodily injury and/or property damage.

b. A comprehensive general liability policy indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents and employees from and against all claims by any person whosoever for property damage occasioned by the operation of grantee under the franchise herein granted, or alleged to have been so caused or occurred, with a minimum liability of one million dollars ($1,000,000) for bodily injury, personal injury or death of one more persons or property damage in any one occurrence.

c. A workers compensation and employers liability policy must carry coverage for statutory workers compensation and employers liability insurance with limits of liability insurance with limits of liability as follows: Bodily injury by accident one hundred thousand dollars ($100,000) each accident; bodily injury by disease five hundred thousand dollars ($500,000) policy limit; bodily injury by disease two hundred thousand dollars ($200,000) dollars each employee. The policy must include the following coverage: occupational disease, sickness and death; broad form all states endorsement; and coverage for any liability or claim that may be incurred under U.S. Longshoremen's and Harbor Worker's Act, Admiralty (Jones) Act, and Federal Employee Liability Act.

d. A franchise bond running to the City with good and sufficient surety approved by the City in the amount specified in the franchise, or if no amount is specified therein, then in the sum of two hundred fifty thousand dollars ($250,000), conditioned upon the faithful performance and discharge of the obligations imposed by this article and the franchise awarded hereunder from the date thereof, including, but not limited to, faithful compliance with the construction timetable proposed by the grantee in its application as incorporated into the franchise, unless appropriate extension is approved by the Council. When regular subscriber service is available to more than ninety percent (90%) of the occupied dwelling units within the franchise area, as described in subsection (7)(a), as certified by the agency to the Council, the amount of the bond shall be reduced to the amount specified in the franchise, or if no amount is specified therein, then to the sum of fifty thousand dollars ($50,000). The City's right to recover under the bond shall be in addition to any other rights retained by the City under this article and other applicable law.

e. Any proceeds recovered under the bond may be used to reimburse the City for the loss of expected payments if the franchise fee and other valuable consideration given for the grant of the franchise, and such additional expenses as may be incurred by the City as a result of grantee's failure to comply with the obligations imposed by this article and the franchise including, but not limited to, attorney's fee and costs of any action or proceeding, the cost of removal or abandonment of any property, or other costs which may be in default.

(2) The bond and all insurance policies called for herein shall be issued by companies licensed to do business within the State of Wisconsin, and shall be in a form satisfactory to the City Attorney and shall require thirty (30) days written notice of any cancellation to both the City and the grantee. The grantee shall, in the event of any such cancellation notice, obtain, pay all premiums for, and file with the City, written evidence of the issuance of replacement bond or policies within thirty (30) days following receipt by the City of the grantee of any notice of cancellation.

(3) The grantee shall, at its sole cost and expense, indemnify, defend and hold harmless the City, its officials, boards, commissions, consultants, agents and employees against any and all claims, suits, causes of action, proceedings, and judgments for damage arising out of copyright infringements and damages arising out of any failure by grantee to secure consents from the owners, authorized distributors, or licensees of programs to be delivered by the grantee's cable system whether or not any act or omission complained of is authorized, allowed, or prohibited by the franchise. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as attorney fees, and shall also include the reasonable value of any services rendered by the City Attorney or

his assistants, or any consultants, agents and employees of the City.

(i) ***Transfer of franchise***.

(1) A franchise granted under this article shall be a privilege to be held in personal trust by the grantee. It shall not be assigned, transferred, sold or disposed of, in whole or in part, by voluntary sale, sale and leaseback, merger, consolidation or otherwise or by forced or involuntary sale, without prior consent of the Council expressed by resolution. Such approval shall not be unreasonably withheld, i.e. in exercising the foregoing approval authority, the City may reasonably consider the qualifications of the proposed purchaser to fulfill the lawful terms and conditions of this article, but may not impose any additional terms or conditions as a prerequisite to approval. The proposed assignee agrees to comply with all the provisions of this article and the franchise and reasonable amendments thereto, and must be able to provide proof of legal, technical, financial and character qualifications as determined by the Council.

(2) Any sale, transfer or assignment authorized by the Council shall occur according to normal business practices and be filed with the City.

(3) Prior approval of the Council shall be required where ownership or control of fifty percent (50%) or more of the right of control of the grantee is acquired during the term of the franchise in any transaction or series of transactions by a person or group of persons acting in concert, none of whom owned or controlled fifty percent (50%) or more of such right of control, singularly or collectively on the effective date of the franchise. By its acceptance of this franchise the grantee specifically grants and agrees that any such acquisition occurring without prior approval of the Council shall render the franchise void. Such approval shall not be unreasonably withheld by the Council.

(4) The consent of the Council to any sale, transfer, lease, trust, mortgage or other instrument of hypothecation shall not constitute waiver or release of any of the rights of the City under this article and the franchise.

**Sec. 9-156. Subscriber fees and records.**

(a) All charges to subscribers shall be consistent with a schedule of fees as established by the grantee for particular service levels. Changes in the basic service fee schedule shall not take effect until at least thirty (30) days after notification of same is delivered to the Council.

(b) The grantee shall not, with regard to service, discriminate or grant any preference or advantage to any person based on race, creed or religion; provided, however, that the grantee may establish different service levels for different classes of subscribers, provided that the grantee not discriminate between any subscribers of the same class.

(c) The grantee shall be required to apprise in writing each new subscriber of all applicable fees and charges for providing cable television service.

(d) Except as may be otherwise provided in a franchise, a subscriber shall have the right to have its service disconnected without charge; such disconnection shall be made as soon as practicable and in no case later than thirty (30) days following notice to the grantee of same and, if requested, shall remove all of grantee's equipment from the subscriber's property. No grantee shall enter into any agreement with a subscriber which imposes any charge following disconnection of service, except for reconnection and subsequent monthly or periodic charges and payment on any delinquent account, and those charges shall be no greater than charges for new customers. This section shall not prevent a grantee from refusing service to any person because the grantee's prior accounts with that person remain due and owing.

(e) Except as may be otherwise provided in a franchise, a grantee may offer service which requires advance payment of periodic service charge for no more than one (1) year in advance subject to the conditions contained in this paragraph. A customer shall have the right, at any time, to have his/her service disconnected with a refund of unused service charges paid to the customer within thirty (30) days from the date of service.

**Sec. 9-157. System operations.**

(a) ***Franchise areas***.

(1) Grantee will offer service to all occupied residential dwellings without discrimination, in all areas within the City, not otherwise wired for cable service, provided, however, that grantee shall not be required to offer or extend service to any area where there are fewer than forty (40) occupied residential dwellings per cable mile.

(2) Grantee must extend and make cable television service available to any isolated resident within or without the franchise area requesting connection at the standard connection charge, if the connection to the isolated resident would require no more than a standard one hundred fifty (150) foot aerial or buried drop line.

(3) With respect to requests for connection requiring an aerial or buried drop line in excess of one hundred fifty (150) feet, grantee must extend and make available cable television service to such residents at a connection charge not to exceed the actual installation costs incurred by the grantee for the distance exceeding one hundred fifty (150) feet.

(b) ***Systems description and service.***

(1) The cable television system to be installed by grantee shall comply in all respects with the technical performance requirements set forth in the FCC's Rules for Cable Television including applicable amendments thereto; provided, however, that nothing contained herein shall be construed to prohibit the grantee from proposing to comply with more rigid technical performance requirements, in which case the grantee's application shall be incorporated by reference in the franchise and will be binding on the grantee. If the FCC should delete said requirements, the City hereby reserves the right to amend this article to incorporate similar standards and every franchise granted pursuant to this article shall be subject to such reserved power whether or not expressly so conditioned.

(2) Applications for franchise shall, to the extent provided in §611 and §626, Cable Communications Policy Act of 1984, include proposals for the provision of public, educational/cultural and local government channels. Such proposals by a grantee shall be incorporated in to the franchise granted, and shall be subject to the following requirements:

a. The grantee shall have available equipment for local production and presentation of cablecast programs other than automated services and permit its use for the production and presentation of public access programs with thirty (30) days' notice. The grantee shall not enter into any contract, arrangement or lease for use of its cablecast equipment which prevents or inhibits the use of such equipment for a substantial portion of time for public access programming.

b. The grantee shall have no control over the content of access cablecast programs; however, this limitation shall not prevent the grantee from taking appropriate steps to insure compliance with the operating rules described herein; failure by the grantee to comply with such operating rules shall constitute a violation of this article.

c. The local government access channel(s) shall be made available for the use of local government authorities free of charge.

(3) Grantee shall provide, without charge within the franchise area, one service outlet activated for regular subscriber service to each fire station, school, police station, public library, and such other buildings used for governmental purposes as may be designated by the City and agreed to by grantee; provided, however, that it is necessary to extend grantee's truck or feeder lines more than three hundred (300) feet solely to provide service to any such school or public building, the City or such other building owner shall have the option either of paying grantee's direct costs for such extension in excess of three hundred (300) feet, or of releasing grantee from the obligation to provide service to such building. Furthermore, grantee shall be permitted to recover, from any public building owner entitled to free basic service, the direct cost of installing, when requested to do so, more than one (1) outlet, or concealed inside wiring, or a service outlet requiring more than two hundred fifty (250) feet of drop cable; provided, however, that the grantee shall not charge for the provision of regular basic subscriber service to the additional service outlets once installed.

(4) A grantee, and all other persons using or making use of the cable communications system(s), shall comply with all federal, state and local laws, rules and regulations regarding the exhibition, display or showing of obscene or indecent material.

(5) At the option of the subscriber, a Grantee shall provide a device capable of locking out any premium programming video and audio signals.

(c) ***Operational requirements and records***.

(1) Grantee shall construct, operate and maintain the cable television system in full compliance with the rules and regulations, including applicable amendments, of the Federal Communications Commission and all other applicable federal, state or local laws and regulations, including the latest editions of the National Electrical Safety Code and the National Fire Protection Association National Electrical Code. The cable television system and all its parts shall be subject to by the City, and the City hereby reserves the right to review

a grantee's construction plans prior to the commencement of construction.

(2) Grantee shall maintain an office or customer service location within the City which shall be open and accessible to the public with adequate telephone service during normal business hours. Grantee shall employ an operator or maintain a telephone answering service twenty-four (24) hours per day, each day of the year, to receive subscriber complaints.

(3) Grantee shall exercise its best effort to design, construct, operate and maintain the system at all times so that signals carried are delivered to subscribers without material degradation in quality (within the limitations imposed by the technical state-of-the-art).

(4) Copies of all correspondence, petitions, reports, applications and other documents sent or received by grantee from federal or state agencies having appropriate jurisdiction in matters affecting local cable television operation shall be simultaneously furnished by the grantee to the agency.

(5) In the case of any emergency or disaster, the grantee shall, upon request of the City, make available its facilities to the City, without costs, for emergency use during the emergency or disaster period.

(d) ***Tests and performance monitoring.***

(1) Not later than one hundred twenty (120) days after any new or substantially rebuilt portion of the system is made available for service to subscribers, technical performance tests shall be conducted by the grantee to demonstrate full compliance with the technical standards of the Federal Communications Commission. Such tests shall be performed by, or under the supervision of, a qualified registered professional engineer or an engineer with proper training and experience. A copy of the report shall be submitted to the City, describing test results, instrumentation, calibration and test procedures, and the qualifications of the engineer responsible for the tests.

(2) System monitor test points shall be established at or near the output of the last amplifier in the longest feeder line, at or near trunk line extremities, or at the locations to be specified in the franchise. Such periodic tests shall be made at the test points as shall be described by the City.

(3) At any time after commencement of services to subscribers, the City may require additional reasonable tests, including full or partial repeat tests, different test procedures, or tests involving a specific subscriber's terminal, at the grantee's expense to the extent such tests may be performed by the grantee's employees utilizing its existing facilities and equipment; provided, however, that the City reserves the right to conduct its own tests upon reasonable notice to the grantee and if non-compliance is found, the expense thereof shall be borne by the grantee. The City will endeavor to arrange its request for special tests so as to minimize hardship or inconvenience to grantee or to the subscriber.

(4) Any copies of ongoing technical maintenance tests performed by the grantee shall be retained by the grantee for by the City for one (1) calendar year after the conclusion of each year.

(5) The City shall have the right to employ qualified consultants if necessary or desirable to assist in the administration of this or any other, section of this article. The expense of said consultants shall be borne by the City.

(e) ***Service, adjustment and complaint procedure.***

(1) Except for circumstances beyond the grantee's control such as strikes, acts of God, weather, wars, riots and civil disturbances, the grantee shall establish a maintenance service capable of locating and correcting major system malfunctions promptly. Said maintenance service shall be available at all hours, to correct such major system malfunctions affecting a number of subscribers.

(2) A listed local telephone number shall be made available to subscribers for service calls at any time of the day or night. Investigative action shall be initiated reasonably promptly in response to all service calls, other than major outages. Corrective action shall be completed as promptly as practicable. Appropriate records shall be made of service calls showing when and what corrective action was completed. Upon request, such records shall be made available to the City for audit during normal business hours and retained in grantee's files for not less than one (1) year.

(3) The grantee shall furnish each subscriber at the

time service is installed written instructions that clearly set forth procedures for placing a service call, or requesting an adjustment. Said instructions shall also include the name, address and telephone number of the agency or other designated employee of the City and a reminder that the subscriber can call or write the agency or other designated employee for information regarding terms and conditions of the grantee's franchise if the grantee fails to respond to the subscriber's request for installation, service or adjustment within a reasonable period of time.

(4) In the event a subscriber does not obtain a satisfactory response or resolution to his request for service or an adjustment within a reasonable period of time, he may advise the agency or other designated employee in writing of his dissatisfaction and the agency or other designated employee shall have the authority to investigate the matter and order corrective action as may be appropriate.

(5) The grantee shall interrupt system service after 7:00 a.m. and before 1:00 a.m. of the following day only with good cause and for the shortest time possible and, except in emergency situations, only after cablecasting notice of service interruption at least twenty-four (24) hours in advance of the service interruption. Service may be interrupted between 1:00 a.m. and 7:00 a.m. for routine testing, maintenance and repair on any day except Saturday or Sunday, or a holiday. The service interruptions described herein do not include what is commonly referred to as “sweeping”.

(f) ***Street occupancy.***

(1) Grantee shall utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different or additional poles, conduits, or other facilities whether on the public way or on privately-owned property, until the written approval of the appropriate governmental authority, and, if necessary, of the property owner is obtained, and which approval shall not be unreasonably withheld by the municipality. However, no location of any pole or wire-holding structure of the grantee shall be a vested interest and such poles or structures shall be removed or modified by the grantee at its own expense whenever the City or other governmental authority determines that the public convenience would be enhanced thereby.

(2) Where the City or a public utility serving the City desires to make use of the poles or other wireholding structures of the grantee but agreement therefore with the grantee cannot be reached, the City may require the grantee to permit such use for such consideration and upon such terms as the City shall determine to be just and reasonable, if the City determines that the use would enhance the public convenience and would not unduly interfere with the grantee's operations.

(3) All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and appearance and reasonable convenience of property owners who adjoin on any public way and at all times shall be kept and maintained in a safe, adequate, and substantial condition, and in good order and repair. The grantee shall at all times employ reasonable care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares, or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by the grantee shall be placed in such a manner as not to interfere with the usual travel on such public way, and only after obtaining and complying with appropriate street occupancy permits from the City.

(4) Grantee shall remove, replace, or modify at its own expense, the installation of any of its facilities as may be deemed necessary by the City or other appropriate governmental authority to meet its proper responsibilities.

(5) All installations shall be underground in those areas of the City where public utilities providing both telephone and electric service are underground at the time of installation. In areas where either telephone or electric utility facilities are above ground at the time of installation, the grantee may install its service above ground, provided that at such time as those facilities are required to be placed underground by the City or are placed underground, the grantee shall likewise place its services underground without additional cost to the City. If the facilities of either the electric or the telephone utility are aerial, the cable television facilities may be located underground at the request of a property owner, provided that the excess cost over aerial location shall be

borne by the property owner making the request.

(6) In the event of a physical disturbance of any public way or private property by the grantee, it shall, at its own expense and in a manner approved by the City or other appropriate governmental authority and the owner, replace and restore such public way or private property in as reasonably good a condition as before the work causing such disturbance was done. In the event the grantee fails to perform such replacement or restoration, the City or the owner shall have the right to do so at the sole expense of the grantee. Demand for payment to the City or owner for such replacement or restoring of such roads or private property as may have been disturbed must be in writing to the grantee.

(7) Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the City to remove or damage any of the grantee's facilities, no charge shall be made by the grantee against the City for restoration and repair.

(8) At the request of any person holding a valid building permit issued by the City or other appropriate governmental authority, and upon at least forty-eight (48) hours notice, grantee shall temporarily raise, lower, or cut its wires as may be necessary to facilitate such move. The direct expense of such temporary changes, including standby time, shall be paid by the permit holder, and grantee shall have the authority to require payment in advance.

(9) Grantee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities, subject to the supervision and direction of the City or other appropriate governmental authority.

(g) ***Construction schedule and reports.***

(1) Upon accepting the franchise, grantee shall, within sixty (60) days, file the documents required to obtain all necessary federal, state and local licenses, permits and authorizations required for the conduct of its business, and shall submit monthly reports to the City on progress in this respect until all such documents are in hand. Failure of the grantee to pursue all necessary steps to secure the aforementioned authorizations with due diligence shall constitute a substantial violation of this article.

(2) The grantee shall commence construction of the cable system within eight (8) months after receiving all necessary permits, authorizations and licenses, and shall complete construction of the system in the franchise area and offer and be capable of delivering cable television service in full accordance with this article and the franchise granted hereunder to subscribers in not less than fifty percent (50%) of the occupied dwelling units in the franchise area within twelve (12) months after commencing construction, and shall be capable of delivering service to the remaining fifty percent (50%) of the occupied dwelling units in the franchise area in the succeeding twelve (12) month period thereafter, or such lesser periods as shall be specified in the franchise. Notwithstanding the foregoing, failure of the grantee for any reason to commence construction within twelve (12) months of the date of acceptance of the franchise shall be grounds for revocation of the franchise. For the purpose of this section, construction shall be deemed to have commenced when the first aerial strand cable has been attached to a pole, or the first underground trench has been opened.

(3) Franchise applications shall include a timetable showing the percentage of occupied dwelling units within the primary service area that will be capable of receiving cable television service each year of construction. Said timetable shall be incorporated into the franchise and shall be enforceable as to the grantee under the provisions of this article.

(4) Each grantee shall fill all requests for cable service, once facilities are in place consistent with the foregoing schedule of service, within thirty (30) days after the date of each request. A record of all service requests shall be kept for at least one (1) year and shall be available for public inspection at the local office of the grantee during regular office hours with reasonable advance notice.

(5) Within three (3) months after accepting the franchise, grantee shall furnish the City a complete construction schedule and map setting forth target dates by areas for commencement of service to subscribers. The schedule and map shall be updated whenever substantial changes become necessary.

(6) Every three (3) months after the start of construction, grantee shall furnish the City a report on progress of construction until

complete. The report shall include a map that clearly defines the areas wherein regular subscriber service is available.

(h) ***Protection of privacy***. The provisions of §134.43 of the Wisconsin Statutes, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of said statute, are hereby adopted and made a part of this section by reference. A violation of any such provision shall be a violation of this section.

(i) ***Prohibition from engaging in radio and television sales or service***. The grantee, its subsidiaries and affiliates, are specifically prohibited, directly or indirectly, from engaging in the sale or leasing of television receivers, video display terminals or monitors, radio receivers, or television or radio parts, except such parts and accessories required for any type of cable connections, such as converters, remote controls and VCR connection plugs and accessories, individually or with any person, anywhere in the City, whether or not for a fee or charge, and is further prohibited from engaging in any type of repair service to television receivers or radio receivers.

(j) ***Area wide interconnection of cable systems.***

(1) A grantee, at its own option, shall interconnect access channels and/or local origination channels of its cable television system with any or all other cable systems providing service in adjacent areas. While grantee may provide such channels to multiple communities served by its distribution systems, this section refers to cabled areas managed by other operators which may now or in the future offer access or local origination channels.

(2) Grantee shall make every reasonable effort to cooperate with cable television franchise holders in contiguous communities in order to provide cable service in areas outside the grantee’s franchise area.

**Sec. 9-158. General provisions.**

(a) ***Limits on grantee’s recourse.***

(1) The grantee, by accepting the franchise, acknowledges that it has not been induced to accept same by any promise, verbal or written, by or on behalf of the City or by any third person regarding any term or condition of this article or the franchise not expressed therein. The grantee further pledges that no promise or inducement, oral or written, has been made to any City employee or official regarding receipt of the cable television franchise.

(2) Acceptance of the article shall not be construed as a waiver by the grantee of any existing or future right to challenge the legality of any provision of this article. Nothing herein or in grantee's acceptance may be construed to deny the grantee the right to judicial review of any action or threatened action by the City arising out of this article.

(b) ***Compliance with state and federal law***. The grantee shall, at all times, comply with all laws of the state and federal government and the rules and regulations of any federal or state administrative agency; provided, however, this section shall not be construed to require the City to make an initial determination of any such violation. Grantee and City acknowledge that this article may be superseded by other state or federal laws, statutes or regulations.

(c) ***Special license***. The City reserves the right to issue a license, easement or other permit to anyone other than the grantee to permit that person to traverse any portion of the grantee's franchise area within the City in order to provide service outside the City. Such license or easement, absent a grant of franchise in accordance with this article, shall not authorize nor permit said person to provide a cable television service of any nature to any home or place of business within the City, nor to render any service or connect any subscriber within the City to the grantee's cable television system.

(d) ***Conflict.*** In case of conflict or ambiguity between this article, the franchise and the grantee's franchise application, the grantee and the City agree that the franchise shall prevail.

(e) ***Failure to enforce franchise***. The grantee shall not be excused from complying with any of the terms and conditions of this article or the franchise by any failure of the City, upon any one or more occasions, to insist upon the grantee's performance or to seek grantee's compliance with any one or more of such terms or conditions.

(f) ***Rights reserved to the grantor***. The City hereby expressly reserves the following rights:

(1) To exercise its governmental powers, now or hereafter, to the full extent that such powers may be vested in or granted to the City.

(2) To adopt, in addition to the provisions contained herein and in the franchise and in any existing applicable article, such additional reasonable regulations of general applicability as it shall find necessary in the exercise of its police power.

(3) The grantee at all times in the installation,

maintenance and operation of the cable television system shall be subject to the terms and conditions of City ordinances of general applicability and to the lawful exercise of the police power of the City provided however that no subsequent municipal actions shall in any way abrogate the rights granted to the grantee herein.

(g) ***Employment requirement***. The grantee shall not refuse to hire, nor discharge from employment, nor discriminate against any person regarding compensation, terms, conditions, or privileges of employment because of age, sex, race, color, creed, or national origin. The grantee shall take affirmative action to insure that employees are treated during employment without regard to their age, sex, race, color, creed or national origin. This condition includes, but is not limited to, the following: recruitment advertising, employment interviews, employment, rates of pay, upgrading, transfer, demotion, lay-off, and termination.

(h) ***Time essence of agreement***. Whenever this article or the franchise sets forth any time for any act to be performed by or on the behalf of the grantee, such time shall be deemed of the essence and the grantee's failure to perform within the time allotted shall, in all cases, be sufficient grounds for the City to invoke the remedies available under the terms and conditions of this article and the franchise.

(i) ***Acceptance.*** This article and the franchise and their terms and conditions shall be accepted by the grantee by written instrument filed with the City within thirty (30) days after the granting of the franchise, unless said period is extended by the Council at its sole discretion.

(j) ***Publication costs***. The grantee shall assume the cost of publication of this article and franchise as such publication is required by law and such is payable upon the grantee's filing of acceptance as in paragraph (i) of this article.

(k) ***Landlord/tenant relations.***

(1) ***Interference with cable service prohibited***. Neither the owner of any multiple unit residential dwelling nor his agent or representative shall interfere with the right of any tenant or lawful resident thereof to receive cable television service, cable installation or maintenance from a cable television company regulated by and lawfully operating under a valid and existing cable television franchise issued by the City.

(2) ***Gratuities and payments to permit service prohibited***. Neither the owner of any multiple unit residential dwelling nor his agent or representative shall ask, demand or receive any payment, service or gratuity in any form as a condition for permitting or cooperating with the installation of a cable communications service to the dwelling unit occupied by a tenant or resident requesting service.

(3) ***Penalties and charges to tenants for service prohibited***. Neither the owner of any multiple unit residential dwelling nor his agent or representative shall knowingly penalize, charge or surcharge a tenant or resident, or forfeit or threaten to forfeit any right of such tenant or resident, or discriminate in any way against such tenant or resident who requests or receives cable communications service from a grantee operating under a valid and existing cable communication franchise issued by the City.

(4) ***Reselling service prohibited***. No person shall resell, without the expressed, written consent of both the grantee and the Council, any cable service, program or signals transmitted by a cable television company operating under a franchise issued by the City.

(5) ***Protection of property permitted***. Nothing in this section shall prohibit a person from requiring that cable television system facilities conform to laws and regulations and reasonable conditions necessary to protect safety, functioning, appearance and value of premises or the convenience and safety of persons or property.

(6) ***Risks assumed by grantee***. Nothing in this section shall prohibit a person from requiring a grantee to agree to indemnify the owner, or his agents or representatives, for damages or from liability for damages caused by the installation, operation, maintenance or removal of cable television facilities.

(l) ***Theft of service***. The provisions of Wisconsin Statutes §§943.46 and 943.47 and the provisions of §633 of the Cable Communications Policy Act of 1984, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of said statute, are adopted and hereby made a part of this section by reference. A violation of any such provision shall be a violation of this section. Additionally, §8.07 of this code governs obtaining cable services by fraud.

(m) ***Penalties.***

(1) Notwithstanding any other remedies provided for in this article, or otherwise available under

law, the City shall have the power to impose the following monetary penalties in the event the grantee violates any provision of this article, the franchise or any rule or regulation lawfully adopted thereunder:

a. For failure to submit plans indicating expected dates of installation of various parts of the system - up to one hundred dollars ($100) per day.

b. For failure to commence operations in accordance with herein stated provisions up to two hundred dollars ($200) per day.

c. For failure to complete construction and installation of system within proper time up to three hundred dollars ($300) per day.

(2) Persons, whether natural or artificial, or commercial entities who violate the following provisions of this article herein before deemed unlawful shall be subject to a fine not to exceed five hundred dollars ($500) for each offense:

a. Willful failure by a grantee to comply with the laws, rules or regulations described in subsections (7)(d)1.

b. Violation of subscriber's privacy as set forth in subsection (7)(h).

c. Any person interfering with the provision of cable communications service as described in subparagraphs 1, 2, 3 or 4 of paragraph (k) of this article.

d. Failure of grantee to tender franchise fee payments at the time required by subsection (5)(g) will result in interest accruing at a rate of one percent (1%) per month from said due date.

(n) ***Grantee may promulgate rules***. Grantee shall have the authority to promulgate such rules, regulations, terms and conditions of its business as shall be reasonably necessary to enable it to exercise its rights and perform its services under this article and the rules of the FCC, and to assure uninterrupted service to each and all of its subscribers. Such rules and regulations shall not be deemed to have the force of law.

(o) ***Delegation of powers***. Any delegable right, power or duty of the City, the Council, the agency or any official of the City under this article may be transferred or delegated by resolution of the Council to an appropriate officer, employee or department of the City or any other legal authority.

(p) ***Severability***. If any section of this article or the franchise, or any portion thereof, is held invalid or unconstitutional by any court of competent jurisdiction or administrative agency, such decision shall not affect the validity of the remaining portions hereof.

(q) ***Effective date***. This article shall become effective upon passage and publication.
(Ord 136-88, §1, 11-2-88)

**Secs. 9-159 – 9-185. Reserved.**

## ARTICLE VI. FOOD AND FOOD SERVICE ESTABLISHMENTS*

### DIVISION 1. GENERALLY

**Sec. 9-186. Application for license.**

Application for a license required in this article shall be made to the Health Department upon a form furnished by the Department and shall contain such information which the Department may prescribe and require and shall be accompanied by payment of the applicable fee.
(Code 1965, §7.15(2); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92)

**Sec. 9-187. Issuance of license generally.**

Licenses required under this article, when approved by the Health Department, shall be issued by the Health Officer. A selective or restrictive permit may be issued by the Health Officer on his determination of conformance with appropriate standards and good public health practices, which permit shall entitle the holder to store, display and sell such products in such manner as may be specified by the Health Officer.
(Code 1965, §7.15(3); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92)

**Sec. 9-188. Inspection required prior to granting of license; fee.**

A license will not be granted under this article to an operator of a new establishment or to a new operator of an existing establishment without a preinspection. A preinspection fee will be assessed for each establishment according to the schedule on file with the Department of Health.
(Code 1965, §7.15(10); Ord 100-90, §1J(10), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 37-93, §1, 3-17-93)

***Cross reference(s)--**Board of health, §2-76 et seq.

**State law reference(s)--**Soda fountain licenses, W.S.A. §66.0433; food regulations, W.S.A. §97.01 et seq.

**Sec. 9-189. Transfer of license; issuance to agent or employee.**

No license issued under this article may be transferred unless otherwise provided by the ordinances of the City. No license shall be issued to or used by any person acting as agent for or in the employ of another.
(Code 1965, §7.15(9); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92)

**Sec. 9-190. Expiration and renewal of license.**

Except where otherwise provided, every Health Department license shall terminate or expire on June 30 of each year and may be renewed annually thereafter. The application for renewal shall be filed with the Health Department on or before June 30, together with payment of the required fee. The fee for said license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Health Department. If the annual renewal fee has not been paid on or before June 30, an additional late payment fee shall be required, the amount if which is on file with the Health Department. Establishments operating on July 15 without a proper license shall be ordered closed by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18. Each violation and each day a violation continues or occurs shall constitute a separate offense.
(Code 1965, §7.15(4); Ord 100-90, §1J(4), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92, Ord 106-95, §1, 11-15-95; Ord 74-96, §1, 9-4-96)

**Sec. 9-191. Suspension or revocation of license.**

The Health Officer may suspend or revoke any license issued pursuant to this article for violations of ordinances or laws regulating the licensed activity and for other good cause.
(Code 1965, §7.15(8)(a); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92)

**Sec. 9-192. Reserved.**

(Code 1965, §7.15(1)(I); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92, Ord 21-03, §1, 1-21-03)

**Sec. 9-193. Right of entry; testing of samples.**

The Health Officer may enter any establishment required to be licensed in this article at all reasonable times to inspect the premises, secure samples or specimens, examine and copy documents, obtain photographs or take any other action he deems necessary to properly enforce the provisions of applicable laws regulating such business or activity. Samples of food, drink or water from any bakery, confectionery, restaurant, retail food establishment or any other licensed premises may be taken from any licensed premises and examined by the Health Officer at such times as he deems necessary, for detection of unwholesomeness, adulteration, microbiological quality or any other enforcement purposes. Adulteration and microbiological quality standards and definitions set forth

in W.S.A. §97.02 or the State Department of Agriculture, Trade and Consumer Protection, Food Division's Policies and Procedures Manual section 14.1 and 14.2 are hereby adopted by reference and incorporated as part of this section.
(Code 1965, §7.15(5); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 2-95, §1, 1-4-95, Ord 21-03, §1, 1-21-03; Ord 6-13, §1, 3-26-13)

**Sec. 9-194. Correction of violations; citations.**

Whenever the Health Officer finds that any establishment required to obtain a license in this article is not operating or equipped in any manner required by ordinances or laws regulating such establishment, the Health Officer may notify, in writing, the person operating the premises, specifying the requirements of such ordinance or law, and requiring that such business comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Health Officer. The Health Officer may also request the issuance of citations for any such violations pursuant to the provisions of §1-17.
(Code 1965, §7.15(6); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92)

**Sec. 9-195. Emergency powers of Health Officer.**

Whenever the Health Officer has reasonable or probable cause to believe that any food, sanitary condition, equipment, premises or method of operation thereof creates a danger to public health, the Health Officer may issue a temporary order prohibiting the sale or movement of food for any purpose, or an order prohibiting the continued operation of the premises or any part thereof which creates the immediate danger to health. The Health Officer may suspend any license without notice whenever the licensed premises constitutes an immediate health hazard.
(Code 1965, §7.15(7); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92)

**Sec. 9-196. Appeals.**

Any person aggrieved by the denial of a license or by suspension or revocation of a license required under this article by the Health Officer or by any temporary suspension or any other order may appeal any such order to the Board of Health within thirty (30) days of denial, suspension or revocation of a license or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order pending determination of the appeal. The Board of Health may affirm, modify, or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings relating to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record
(Code 1965, §7.15(8)(b); Ord 20-92, §1, 3-4-92)

**Sec. 9-197. Litter disposal at drive-ins and premises with outside vending machines.**

Any premises on which the public is served food or beverages while seated in vehicles or outdoors, commonly known as drive-ins, or upon which is located a food or beverage outdoor vending machine, shall be provided with adequate facilities for the disposal of bottles, cans, napkins, straws and similar litter resulting from such business, and shall promptly dispose of any such litter which may be thrown or fall on or around the premises.
(Code 1965, §8.04(2); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

**Secs. 9-198 – 9-215. Reserved.**

## DIVISION 2. RETAIL FOOD ESTABLISHMENTS*

### Sec. 9-216. Definitions.

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

***Food*** means articles used for food or drink by persons, chewing gum, and articles used as components of food.

***Retail food establishment*** means an establishment required to be licensed under W.S.A. §97.30, and all other commercial enterprises, fixed or mobile, where food is processed or sold or offered for sale at retail. The term shall also include all areas and facilities of such establishments used in conjunction therewith and all vehicles and equipment utilized in conjunction therewith. It includes retail grocery stores; meat markets; poultry markets; fish markets; delicatessens; bakeries; confectioneries; ice cream shops; cheese stores; convenience marts; milk cases; spice and herb shops; mobile retail food establishments; and all other establishments where food is processed or sold or offered for sale at retail.

(Code 1965, §7.16(2); Ord 21-92, §1, 3-4-92; Ord 59-92, §1, 6-3-92; Ord 35-94, §1, 2-16-94, Ord 21-03, §1, 1-21-03; Ord 79-16, §1, 11-8-16)

**Cross reference(s)--**Definitions and rules of construction generally, §1-2.

### Sec. 9-217. License required.

(a) No person shall operate or carry on a business of a retail food establishment without obtaining a license therefore from the Health Department.

(b) The following establishments are excepted from the provisions of this section:

(1) Any establishment exempted according to the terms and conditions in any agreement by and between the City and State Department of Agriculture, Trade and Consumer Protection. Any such agreements shall be on file with the Department of Health.

(Code 1965, §7.16(1); Ord 21-92, §1, 3-4-92; Ord 36-94, §1, 2-16-94, Ord 21-03, §1, 1-21-03)

**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

***Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**State law reference(s)--**Licenses, W.S.A. §§93.09, 97.30 et seq.

### Sec. 9-218. Fees.

A license shall be required to operate or conduct the following retail food establishments. The fee for said license shall be on file with the Department of Health. Other regulations shall be as prescribed in this chapter.

(1) Food sales of one million dollars ($1,000,000) or more and processes potentially hazardous food.

(2) Food sales of two hundred fifty thousand dollars ($250,000) to one million dollars ($1,000,000) and processes potentially hazardous food.

(3) Food sales of twenty-five thousand dollars ($25,000) to two hundred fifty thousand dollars ($250,000) and processes potentially hazardous food.

(4) Processes non-potentially hazardous food.

(5) Does not engage in food processing.

(6) Food sales of less than twenty-five thousand dollars ($25,000) and engage in food processing.

(7) In addition, the applicant must pay any state administrative fees, the amount of which is on file with the Department of Health.

(Code 1965, §7.15(1)(B); Ord 100-90, §1(b), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 21-92, §1, 3-4-92; Ord 106-92, §1, 10-7-92; Ord 38-93, §1, 3-17-93, Ord 21-03, §1, 1-21-03)

### Sec. 9-219. State sanitation regulations adopted.

All retail food establishments and licenses under this division shall be subject to and comply with the provisions of Wisconsin Administrative Code, Sections ATCP 75.01 through ATCP 75.05, which are hereby adopted by reference and incorporated as part of this division.

(Code 1965, §7.16(3); Ord 20-92, §1, 3-4-92; Ord 144-94, §1, 12-7-94, Ord 21-03, §1, 1-21-03; Ord 80-16, §1, 11-8-16)

**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

### Secs. 9-220 – 9-235. Reserved.

## DIVISION 3. RESTAURANTS AND OTHER PUBLIC EATING AND DRINKING ESTABLISHMENTS

### Sec. 9-236. Definition.

For purposes of this division, public eating and drinking establishment shall mean any premises as defined by Wisconsin Administrative Code, ATCP §75.03(5), and shall also mean any restaurant, coffee shop, cafeteria, caterer, luncheonette, sandwich stand and all other catering establishments, as well as kitchens and other places where food or drink is prepared, served or sold to the public for human consumption.
(Code 1965, §7.17(2), Ord 21-03, §1, 1-21-03; Ord 81-16, §1, 11-8-16)
**Cross reference(s)--**Definitions and rules of construction generally, §1-2.

### Sec. 9-237. License required; fees.

(a) No person shall conduct a business of or operate a public eating and drinking establishment without obtaining a license therefore from the Health Department. The fee for a license under this division shall be on file with the Department of Health.

(b) In addition, the applicant must pay any state administrative fees, the amount of which is on file with the Department of Health.
(Code 1965, §§7.15(1)(a), 7.17(1); Ord 100-90, §1(a), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 21-93, §1, 2-17-93; Ord 39-93, §1, 3-17-93)
**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

### Sec. 9-238. State sanitation regulations adopted.

All restaurants and licensees under this division shall be subject to and comply with the provisions of Wisconsin Administrative Code, sections ATCP 75.01 through ATCP 75.112, which are hereby adopted by reference and incorporated as part of this division.
(Code 1965, §7.17(3); Ord 145-94, §1, 12-7-94, Ord 21-03, §1, 1-21-03; Ord 82-16, §1, 11-8-16)
**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

### Sec. 9-239. Cleanliness of utensils.

The Health Officer may test the efficacy of bactericidal processes of utensil cleaning by performing swab tests or other suitable testing methods, and the average of such counts on eating and drinking utensils shall not exceed one hundred (100) colonies per utensil at any time.
(Code 1965, §7.17(3))

**Secs. 9-240—9-255. Reserved.**

## DIVISION 4. SIDEWALK CAFES

### 9-256. Definitions.

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

***Amenity Strip*** shall mean the area between the curb and the defined pedestrian right-of-way along College Avenue between Richmond Street and Drew Street. On all other streets, amenity strip shall mean a minimum four- (4-) foot width between the curb and an eight- (8-) foot pedestrian right-of-way.

***Sidewalk Café*** shall mean any group of tables and chairs maintained upon the amenity strip for use directly in front of an establishment with a valid food and drink permit.
(Ord 51-05, §1, 5-24-05; Ord 114-06, §1, 9-26-06)

### 9-257. Permit required.

No merchant shall have a sidewalk café within the City without first obtaining a Street Occupancy Permit from the Department of Public works.
(Ord 51-05, §1, 5-24-05)

### 9-258. Application for permit; permit fees.

In order to obtain a Street Occupancy Permit required under this division, a written request shall be made to the Department of Public Works and shall contain such information which the Department may prescribe and require and shall be accompanied by payment of the applicable fee.
(Ord 51-05, §1, 5-24-05)

### 9-259. Granting; transfer.

Upon approval of the written request by the Common Council, the Department of Public Works shall issue the Street Occupancy Permit. Each permit shall be numbered in the order in which it is issued and shall contain the approval date, the location, and the name of the permit holder. No permit shall be transferable either to the permit holder or the location.
(Ord 51-05, §1, -24-05)

### 9-260. Appeal of denial.

If the investigating authority denies a written request for a Street Occupancy Permit under this division, the Department of Public Works shall forthwith notify the requestor by certified mail, return receipt requested, of the denial and the reason therefore. The notice shall indicate the date and time of the review of the denial by the Municipal Services Committee and the right of the

requestor to appear before the Committee. The Municipal Services Committee shall hear any person for or against the granting of the permit and shall report its recommendation to the Common Council, which shall grant or deny the permit.
(Ord 51-05, §1, 5-24-05)

**9-261. Restrictions on use of permit.**

Street Occupancy Permits issued under this division shall not be valid on the following special event days: Flag Day Parade, License to Cruise, Octoberfest, Christmas Parade and any day that planned/permitted special event would close the street in front of the sidewalk café for normal use or traffic.
(Ord 51-05, §1, 5-24-05)

**9-262. Conduct of business generally.**

(a) A permit holder under this division shall be subject to the following:

(1) The parameters of the sidewalk café shall be limited to the area of the amenity strip located immediately in front of the establishment and shall not extend beyond the width of the establishment's property line.

(2) No sidewalk café may obstruct the defined pedestrian right-of-way adjacent to the amenity strip.

(3) A permit holder shall keep the parameters of the sidewalk café and the surrounding area in a clean and sanitary condition.

(4) All food, beverages or other items shall only be served within the sidewalk café by employees of the permit holder and only to patrons who are seated at a table within the sidewalk café. This section shall not apply to establishments that solely offer over the counter service and are not licensed to sell alcoholic beverages.

(5) During the sidewalk café's operating hours, patrons being served within the sidewalk café shall count towards the premise's established capacity.

(6) A minimum width of twelve (12) feet between the back of curb and the building face must exist; with a minimum of eight (8) feet available for pedestrian traffic and four (4) feet available for tables and chairs.

(7) The sidewalk café must be adjacent to the street with marked on-street parking stalls to provide a physical barrier between vehicular traffic and the café.

(b) If a permit holder is going to serve alcoholic beverages within the parameters of the sidewalk café, the permit holder shall also be subject to the following:

(1) The permit holder must hold a Class B license.

(2) The description for the premise on the Class B license must include the parameters of the sidewalk café.

(3) The permit holder must obtain a Special Use Permit.

(4) The permit holder can begin serving alcoholic beverages in the sidewalk café at 4:00 p.m. Monday through Friday and 11:00 a.m. on Saturday and Sunday. All alcoholic beverages must be removed from the sidewalk café by 9:30 p.m.

(5) A licensed operator working for the permit holder must serve the alcoholic beverages in the sidewalk café.

(6) Customers are not allowed to carry alcoholic beverages outside the sidewalk café.

(c) The Chief of Police or designee may close a sidewalk café at any time the health, safety, welfare or good order of the City is threatened.
(Ord 51-05, §1, 5-24-05; Ord 115-06, §1, 9-26-06; Ord 138-09, §1, 8-11-09; Ord 53-14, §1, 7-8-14)

**9-263. Revocation, suspension, non-renewal.**

(a) ***Causes.*** A Street Occupancy Permit may be revoked, suspended or not renewed for a violation of any provision of this ordinance, or any other City ordinance or state statute which is substantially related to the permit activity.

(b) ***Procedure.***

(1) A complaint shall be made in writing by the Chief of Police or any other person to the Common Council.

(2) A hearing shall be held before the Municipal Services Committee. The permit holder shall be notified in writing of the hearing date and time and of the charges alleged, not less than three (3) days and not more than ten (10) days prior to the hearing.

(3) At the hearing, the Chief of Police or designee shall present evidence of the alleged

violation(s). The permit holder may appear in person with or without counsel and shall be allowed to question witnesses and present evidence.

(4) At the conclusion of the hearing, the Municipal Services Committee shall make a recommendation to the Common Council whether cause for revocation, suspension or non-renewal exists. The Common Council shall consider the recommendation at its next regularly scheduled meeting and may revoke, suspend for a period not less than ten (10) days nor more than ninety (90) days, refuse to renew or grant the permit. If the permit holder is not satisfied with the Common Council's decision, the permit holder may, within thirty (30) days, have the decision reviewed by the circuit court.

(Ord 51-05, §1, 5-24-05)

**9-264. Liability insurance.**

To hold a Street Occupancy Permit, the permit holder must have in force liability insurance and must agree to indemnify, defend and hold the City, its employees and agents harmless against all claims, liability, loss, damage, or expense incurred by the City as a result of any injury to or death of any person or damage to property caused by or resulting from the activities for which the permit is granted. As evidence of liability insurance, the permit holder shall furnish a Certificate of Insurance, on a form acceptable to the City, evidencing the existence of adequate liability insurance naming the City of Appleton, it employees and agents as additional insureds in an amount not less than one million dollars ($1,000,000). Whenever such policy is cancelled, not renewed, or materially changed the insurer and the permit holder shall notify the City of Appleton by certified mail.

(Ord 51-05, §1, 5-24-05)

**9-265. Penalty for violation of division.**

Any person who shall violate any provision of this division shall be subject to the penalty as provided in §1-16.

(Ord 51-05, §1, 5-24-05)

**Secs. 9-266—9-275. Reserved.**

**DIVISION 5. RESERVED***

**Secs. 9-276—9-295. Reserved.**

***Editor's note--**Ord 22-93, §1, adopted Feb. 17, 1993, repealed Divs. 4 and 5, §9-256-§9-258, §9-276-§9-278, which pertained to bakeries and confectioneries.

## ARTICLE VII. HOTELS, MOTELS AND OTHER TOURIST ROOMING HOUSES

### DIVISION 1. GENERALLY

**Sec. 9-296. Application for license.**

Application for a license required in this article shall be made to the Health Department upon a form furnished by the Department and shall contain such information which the Department may prescribe and require and shall be accompanied by payment of the applicable fee.
(Code 1965, §7.15(2); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

**Sec. 9-297. Issuance of license generally.**

Licenses required under this article, when approved by the Health Department, shall be issued by the Health Officer. A selective or restrictive permit may be issued by the Health Officer on his determination of conformance with appropriate standards and good public health practices, which permit shall entitle the holder to store, display and sell such products in such manner as may be specified by the Health Officer.
(Code 1965, §7.15(3); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

**Sec. 9-298. Inspection required prior to granting of license; fee.**

A license will not be granted under this article to an operator of a new establishment or to a new operator of an existing establishment without a preinspection. A preinspection fee will be assessed for each establishment according to the schedule on file with the Department of Health.
(Code 1965, §7.15(10); Ord 100-90, §1J(10), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 40-93, §1, 3-17-93)

**Sec. 9-299. Transfer of license; issuance to agent or employee.**

No license issued under this article may be transferred unless otherwise provided by the ordinances of the City. No license shall be issued to or used by any person acting as agent for or in the employ of another.
(Code 1965, §7.15(9); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

**Sec. 9-300. Expiration and renewal of license.**

Except where otherwise provided, every Health Department license shall terminate or expire on June 30 of each year and may be renewed annually thereafter. The application for renewal shall be filed with the Health Department on or before June 30, together with payment of the required fee. The fee for said license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Health Department. If the annual renewal fee has not been paid on or before June 30, an additional late payment fee shall be required, the amount if which is on file with the Health Department. Establishments operating on July 15 without a proper license shall be ordered closed by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18. Each violation and each day a violation continues or occurs shall constitute a separate offense.
(Code 1965, §7.15(4); Ord 100-90, §1J(4), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92, Ord 106-95, §1, 11-15-95; Ord 74-96, §1, 9-4-96)

**Sec. 9-301. Suspension or revocation of license.**

The Health Officer may suspend or revoke any license issued pursuant to this article for violations of ordinances or laws regulating the licensed activity and for other good cause.
(Code 1965, §7.15(8)(a); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

**Sec. 9-302. Right of entry; testing of samples.**

The Health Officer may enter any establishment required to be licensed in this article at all reasonable times to inspect the premises, secure samples or specimens, examine and copy documents, obtain photographs or take any other action he deems necessary to properly enforce the provisions of applicable laws regulating such business or activity. Samples of food, drink or water from any licensed premises may be taken from any licensed premises and examined by the Health Officer at such times as he deems necessary, for detection of unwholesomeness, adulteration, microbiological quality, or any other enforcement proposes. Adulteration and microbiological quality standards and definitions set forth in W.S.A. §97.02 or the State Department of Agriculture, Trade and Consumer Protection, Food Division's Policies and Procedures Manual section 14.1 and 14.2 are hereby adopted by reference and incorporated as part of this section.
(Code 1965, §7.15(5); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 3-95, §1, 1-4-95, Ord 22-03, §1, 1-21-03; Ord 7-13, §1, 3-26-13)

**Sec. 9-303. Correction of violations; citations.**

Whenever the Health Officer finds that any establishment required to obtain a license in this article is not operating or equipped in any manner required by ordinances or laws regulating such establishment, the Health Officer may notify, in writing, the person operating

the premises, specifying the requirements of such ordinance or law, and requiring that such business comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Health Officer. The Health Officer may also request the issuance of citations for any such violations pursuant to the provisions of §1-17.
(Code 1965, §7.15(6); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

**Sec. 9-304. Emergency powers of Health Officer.**

Whenever the Health Officer has reasonable or probable cause to believe that any food, sanitary condition, equipment, premises or method of operation thereof creates a danger to public health, the Health Officer may issue a temporary order prohibiting the sale or movement of food for any purpose, or an order prohibiting the continued operation of the premises or any part thereof which creates the immediate danger to health. The Health Officer may suspend any license without notice whenever the licensed premises constitutes an immediate health hazard.
(Code 1965, §7.15(7); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

**Sec. 9-305. Appeals.**

Any person aggrieved by the denial of a license or by suspension or revocation of a license required under this article by the Health Officer or by any temporary suspension or any other order may appeal any such order to the Board of Health within thirty (30) days of suspension, revocation or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such other pending determination of the appeal. The Board of Health may affirm, modify or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings relating to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record
(Code 1965, §7.15(8)(b); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

**Secs. 9-306—9-320. Reserved.**

## DIVISION 2. BED AND BREAKFAST ESTABLISHMENTS*

### Sec. 9-321. Definition.

For the purposes of this division, ***bed and breakfast establishment*** means any place of lodging that provides eight (8) or fewer rooms for rent to no more than a total of twenty (20) tourists or other transients for more than ten (10) nights in a twelve- (12-) month period, is the owner's personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.
(Code 1965, §7.24(2); Ord 146-94, §1, 12-7-94; Ord 48-97, §1, 6-4-97; Ord 68-07, §1, 6-26-07; Ord 33-14, §1, 5-27-14)

### Sec. 9-322. License required; fees.

No person shall operate or carry on a bed and breakfast establishment without obtaining a license from the Health Department. The fee for the license is on file with the Department of Health. In addition, the applicant must pay any state administrative fees, the amount of which is on file with the Department of Health.
(Code 1965, §7.15(1)(h), 7.24(1); Ord 100-90, §1(h), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 41-93, §1, 3-17-93)

### Sec. 9-323. State sanitation regulations adopted.

All bed and breakfast establishments and licensees under this division shall be subject to and comply with Wisconsin Administrative Code, ATCP §73.01 through ATCP §73.15, which are hereby adopted by reference and incorporated as part of this division.
(Code 1965, §7.24(3), Ord 22-03, §1, 1-21-03; Ord 34-14, §1, 5-27-14 ; Ord 83-16, §1, 11-8-16)
***Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

### Sec. 9-324. Guest register.

Each bed and breakfast establishment shall provide a register and require all guests to register their true names and addresses before being assigned sleeping quarters. The register shall be kept intact and available for inspection by representatives of the Health Department for at least one (1) year.
(Code 1965, §7.24(3))

### Secs. 9-325 – 9-340. Reserved.

## DIVISION 3. HOTELS, MOTELS AND TOURIST ROOMING HOUSES*

**Sec. 9-341. Definition.**

For purposes of this division, hotel, motel and tourist rooming house shall mean any premises defined by Wisconsin Administrative Code, DHS §195.03.
(Code 1965, §7.21(2), Ord 22-03, §1, 1-21-03)

**Sec. 9-342. License required; fee.**

(a) No person shall operate a hotel, motel or tourist rooming house without obtaining a license from the Health Department.

(b) The fee for such license is according to the schedule on file with the Health Department.

(c) In addition, the applicant must pay any state administrative fees, the amount of which is on file with the Department of Health.
(Code 1965, §§7.15(1)(E), 7.21(1); Ord 100-90, §1(e), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 42-93, §1, 3-17-93)

**Sec. 9-343. State sanitation regulations adopted.**

All hotels, motels and tourist rooming houses and licensees under this division shall be subject to and comply with the provisions of Wisconsin Administrative Code, ATCP §72.01 through ATCP §72.16, which are hereby adopted by reference and incorporated as part of this division.
(Code 1965, §7.21(3), Ord 22-03, §1, 1-21-03; Ord 84-16, §1, 11-8-16)
***Cross references**--Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Secs. 9-344 – 9-360. Reserved.**

## ARTICLE VIII. JUNKYARDS AND SECONDHAND GOODS DEALERS*

### DIVISION 1. GENERALLY

**Secs. 9-361—9-385. Reserved.**

## DIVISION 2. SALVAGE DEALERS**

### Sec. 9-386. License required.

No person in the City shall keep, conduct or maintain any building, structure, yard or place for keeping, storing or piling in commercial quantities, whether temporarily, irregularly or continually, or for the buying and selling or picking up and selling at retail or wholesale or dealing in any old, used or secondhand materials of any kind, including cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, brass, copper or other metal, furniture, used motor vehicles or the parts thereof, or other article which from its worn condition renders is practically useless for the purpose for which it was made and which is commonly classed as junk or salvage, nor shall any person engage in the business of buying or selling junk or salvage as described in this section in the City, without first having obtained a license as provided in this division. Any person engaging in the business described in this section shall be known as a salvage dealer.
(Code 1965, §11.05(1))

***State law references**--Secondhand goods, W.S.A. §100.18(3); storage of junked automobiles, W.S.A. §175.25; secondhand goods dealer regulations, W.S.A. §134.71.

****Cross references--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

### Sec. 9-387. Application for license.

Every applicant for a license to engage in the business of salvage dealer shall file with the City Clerk a written application upon a form prepared and provided by the City, signed by the applicant. The application shall state:

(1) The name and residence of the applicant if an individual, partnership or firm, or the names of the principal officers and their residences if the applicant is an association or corporation.

(2) Whether the applicant or an officer or manager of the applicant has been employed by a salvage dealer or has been a salvage dealer.

(3) The detailed nature of the business to be conducted and the kind of materials to be collected, bought, sold or otherwise handled.

(4) The place where such business is to be located or carried on.

Such application shall contain an agreement that the applicant accepts the license, if granted, upon the condition that it may be suspended for cause at any time by the Common Council. Every application shall be signed and acknowledged before a notary public or other officer authorized to administer oaths.
(Code 1965, §11.05(2))

### Sec. 9-388. Investigation; issuance of license.

(a) The City Clerk shall report an application for a license under this division to the Chief of Police, Health Officer, Fire Chief, Inspection Supervisor and the Director of Finance, who shall inspect or cause to be inspected such premises to determine whether the premises comply with all laws, ordinances, rules and regulations. The premises and all structures thereon shall be so situated and constructed that the business may be carried on in a sanitary manner, shall contain no fire hazards, and shall be arranged so that thorough inspection may be made at all times by the proper health, fire, building and police authorities.

(b) The Common Council shall issue a license to the applicant upon the approval of the application, after investigation, and the payment to the City of the license fee. No license shall be refused except for a specific reason. All licenses shall be numbered in the order in which they are issued and shall state clearly the location of the business, the date of issuance and expiration of the license, and the name and address of the licensee. No applicant to whom a license has been refused shall make further application until a period of at least six (6) months has elapsed since the last previous rejection, unless he can show that the reason for such rejection no longer exists.
(Code 1965, §11.05(3), (5); Ord 32-92, §1, 3-18-92; Ord 4-93, §1, 1-6-93; Ord 173-93, §1, 10-19-93; Ord 176-93, §1, 10-19-93; Ord 122-96, §1, 12-18-96)

### Sec. 9-389. Appeal of denial of license.

If the investigating authority denies an application for a license under this division, the City Clerk shall forthwith notify the applicant by certified mail of the recommendation for denial and the reason therefor. The notice shall indicate that the applicant has the right to appeal the decision but must contact the City Clerk's Office within thirty (30) days of receipt of the letter to schedule an appeal of the denial before the Safety and Licensing Committee. The Safety and Licensing Committee shall hear any person for or against granting the license and shall report its recommendation to the Common Council, which shall grant or deny the license.
(Ord 108-04, §1, 8-10-04; Ord 77-15, §1, 9-22-15)

### Sec. 9-390. License fee.

Every licensee under this division shall pay an annual license fee, the amount of which is on file in the office of the City Clerk.
(Code 1965, §11.05(6); Ord 11-94, §1, 1-5-94)

### Sec. 9-391. Nonconforming uses.

Licensees under this division permitted in zoning

districts other than a heavy industry district as nonconforming uses shall confine their business to a building on the premises. If the licensee violates this section and his license is revoked, the right to use of the premises shall be limited to the uses permitted in the district in which the premises are located.
(Code 1965, §11.05(4))

**Sec. 9-392. Change of place of business.**

Every license issued pursuant to this division shall designate the place of business in or from which the licensee shall be authorized to carry on such business. No licensee shall remove his place of business from the place designated in the license until a written permit has been secured from the City and such permission has been endorsed upon the license.
(Code 1965, §11.05(7))

**Sec. 9-393. Probation.**

If any licensee under this division violates any provision of this division and the Common Council determines that the offense does not warrant revocation under §9-29, the Common Council may place the licensee on probation for six (6) months and at the expiration thereof may reinstate the licensee or may revoke his license if the licensee has failed to comply with this division or conditions established for continued operation.
(Code 1965, §11.05(11))

**Sec. 9-394. Operation of business generally.**

(a) No licensee under this division shall carry on his business at or from any other place than that designated in the license, nor shall the business be carried on after such license has been revoked or has expired.

(b) No licensee shall make any purchase from any person or receive any article between 8:00 p.m. and 7:00 a.m.

(c) The contents of the premises of every licensee shall be arranged in an orderly manner with all similar things located together so as to facilitate inspection by the proper authorities. The premises of every licensee shall be subject to inspection by the proper authorities at any time.

(d) All paper that is stored shall be baled and all rags shall be baled or bagged, and both shall be kept within a building on the premises.

(e) No licensee shall store or keep any junk or salvage within a district zoned as residential under the zoning code.

(f) No vehicle, while carrying junk or salvage material, shall be parked in a residential district from 8:00 p.m. to 6:00 a.m.

(g) The area within ten (10) feet of the loading dock shall be permanently surfaced so as to facilitate cleaning.

(h) Any outside yard where junk or salvage material is kept shall be enclosed with a permanent fence no less than eight (8) feet high constructed of material which will, so far as practicable, conceal such yard from the view of persons using neighboring properties or public thoroughfares, and such fence shall be maintained in its vertical and horizontal planes.
(Code 1965, §11.05(8)(a), (b), (d)--(i))

**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 9-395. Register required.**

Every salvage dealer shall keep at his place of business a book or register in which he shall enter in writing a minute description of all persons and of the property or choices in action received on deposit, pledge or purchase and the time when they were received and shall mention any prominent or descriptive marks that may be on such property or choices in action together with the name and residence of the person by whom they were left, deposited and pledged. No entry therein shall be erased, obliterated or defaced during the period of the dealer's license.
(Code 1965, §11.06(3))

**Sec. 9-396. Exhibition of register and goods.**

Every person licensed under this division shall, during the ordinary hours of business, when required by any City official or any police officer of the City, submit and exhibit to such officer the register book and any goods, personal property, or choices in action that may be left, deposited, pledged or purchased.
(Code 1965, §11.06(4)

**Sec. 9-397. Lost or stolen articles.**

(a) Any licensee under this division who shall have or receive any goods, articles or things lost or stolen or alleged or supposed to have been lost or stolen shall report such receipt to the police department and exhibit the article on demand to any police officer.

(b) The Chief of Police may cause any article or thing of value which has been purchased by a salvage dealer to be held by the licensee or delivered to the Chief of Police for the purpose of being identified by the lawful owner for such reasonable length of time as the Chief of Police shall deem necessary for such identification.
(Code 1965, §§11.05(9), 11.06(6))

**Sec. 9-398. Acceptance of goods from minor, intoxicated person or person of unsound mind.**

No licensee under this division shall buy or accept anything from minors or any person intoxicated or of unsound mind without first obtaining the consent of the parents or lawful guardian of such person.
(Code 1965, §11.06(5))

**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 9-399. Clearing of premises on closing of operation.**

When any licensee under this division ceases business operations he shall, within thirty (30) days, clear the licensed premises of all junk or salvage material. If the licensee fails to comply with this section, the City may cause the work to be done and the cost thereof assessed as a special charge against the property.
(Code 1965, §11.05(10))

**Secs. 9-400—9-415. Reserved.**

## DIVISION 3. SECONDHAND GOODS DEALERS

**Sec. 9-416. State law adopted.**

(a) The provisions of W.S.A. §134.71, relating to pawnbrokers, secondhand article and jewelry dealers and secondhand article dealers mall or flea market, exclusive of the definition of article, provisions relating to the holding period, and provisions thereof relating to the penalty to be imposed or the punishment for violation of said statutes or fees to be imposed for licenses, are hereby adopted and made a part of this division by reference. A violation of any such provision shall be a violation of this division.

(b) Article means any item of value, excluding only motor vehicles, large appliances, furniture, books and clothing other than furs.
(Ord 38-92, §1, 4-15-92; Ord 148-09, §1, 10-13-09)

**Sec. 9-417. License required.**

(a) No person, firm or company shall operate as a pawnbroker, secondhand article dealer, secondhand jewelry dealer or secondhand article dealer mall or flea market within the City unless duly licensed to do so by the Common Council.

(1) A person who operates as a secondhand article dealer on premises or land owned by a person, firm or company with a secondhand dealer mall or flea market license does not need to obtain a secondhand article dealer's license.

(2) Subsection (a) shall not apply to secondhand article dealers and secondhand jewelry dealers if the dealer is licensed in another municipality within the State of Wisconsin, unless subsection (b) applies.

(b) No person, firm or company shall operate as a secondhand article dealer or secondhand jewelry dealer and have a principal place of business within the City unless duly licensed to do so by the Common Council.
(Ord 38-92, §2, 4-15-92; Ord 58-92, §1, 5-20-92; Ord 148-09, §1, 10-13-09)

**Sec. 9-418. Exempted secondhand article dealers.**

Secondhand article dealer does not include any retailer or merchant who receives and resells trade-in merchandise if sales of used property constitute less than one percent (1%) of gross sales.
(Ord 38-92, §3, 4-15-92; Ord 148-09, §1, 10-13-09)

**Sec. 9-419. Application for license; license fees.**

Persons, firms or businesses required to be licensed under this division shall make application for the license

with the City Clerk's Office on the appropriate form. The fees for licenses required are on file in the office of the City Clerk.
(Ord 38-92, §4, 4-15-92; Ord 12-94, §1, 1-5-94; Ord 148-09, §1, 10-13-09)

**Sec. 9-420. Issuance of license.**

(a) Upon receipt of an application for a license under this division, the Chief of Police, Fire Chief and sealer of weights and measures shall institute such investigation of the applicant as they deem necessary for the protection of the public good.

(b) The Common Council shall issue a license to the applicant upon the approval of the application after investigation and the payment to the City of the license fee.
(Ord 38-92, §5, 4-15-92)

**Sec. 9-421. Requirements.**

(a) ***Daily reports to police.***

(1) Pawnbrokers and secondhand article and jewelry dealers must maintain an electronic inventory tracking system which is capable of transmission and delivery of all statutorily-required information via computer to an entity designated by the City of Appleton Police Department.

(2) Pawnbrokers and secondhand article and jewelry dealers must submit every reportable transaction to the Police Department each business day in the following manner.

a. Pawnbrokers and secondhand article and jewelry dealers must provide to the Police Department all required information pursuant to Wis. Stat. sec. 134.71(8), by transferring it from their computer to an entity designated by the City of Appleton Police Department.

b. If a pawnbroker or secondhand article and jewelry dealer is unable to successfully transfer the required reports electronically, the pawnbroker or secondhand article and jewelry dealer must provide the Police Department with printed copies of all reportable transactions by 12:00 noon the next business day.

c. If the problem is determined to be in the pawnbroker's or secondhand article and jewelry dealer's system and is not corrected by the close of the first business day following the failure, the pawnbroker or secondhand article and jewelry dealer must provide the required reports as detailed in Wis. Stat. sec. 134.71(8), and shall be charged a daily reporting fee of ten dollars ($10.00) until the error is corrected or if the problem is determined to be outside the pawnbroker or secondhand article and jewelry dealer's system, the pawnbroker or secondhand article and jewelry dealer must provide the required reports pursuant to Wis. Stat. sec. 134.71(8) and electronically resubmit all such transactions when the error is corrected.

d. Regardless of the cause or origin of the technical problems that prevented the pawnbroker or secondhand article and jewelry dealer from uploading the reportable transactions, upon correction of the problem, the pawnbroker or secondhand article and jewelry dealer shall upload every reportable transaction from every business day the problem existed.

e. The provisions of this section notwithstanding, the Police Department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

(b) ***Holding Period***.

(1) Except as provided in subsection (3), any secondhand article purchased or received by a pawnbroker or secondhand article and jewelry dealer shall be kept on the premises or other place for safekeeping for not less than twenty-one (21) days after the date of purchase or receipt, unless the person known by the pawnbroker to be the lawful owner of the secondhand article redeems it.

(2) During the period set forth in subsection (1), the secondhand article or secondhand jewelry shall be held separate and apart and may not be altered in any manner. The pawnbroker, secondhand article dealer or secondhand jewelry dealer shall permit any law enforcement officer to inspect the secondhand article or secondhand jewelry during this period. Within twenty-four (24) hours after a written request of a law enforcement officer during this period, a pawnbroker, secondhand dealer or secondhand jewelry dealer shall make available for inspection any secondhand article or secondhand jewelry that is kept off the premises for safekeeping. Any law enforcement officer who has reason to believe any secondhand

article or secondhand jewelry was not sold or exchanged by the lawful owner may direct a pawnbroker, secondhand article dealer or secondhand jewelry dealer to hold that secondhand article or secondhand jewelry for a reasonable length of time that the law enforcement officer considers necessary to identify it.

(3) Subsection 9-421 does not apply to any of the following:

a. A coin of the United States, any gold or silver coin or gold or silver bullion.

b. A secondhand article consigned to a pawnbroker, secondhand dealer, or secondhand jewelry dealer.

(4) Subsection 9-421(b) does not apply to articles defined as sporting goods other than weapons, ammunition, and electronics used in outdoor sports.

(c) ***Storage of Goods.*** Licensees shall insure that all of their merchandise and any parts for said merchandise shall be stored indoors.
(Ord 38-92, §6, 4-15-92; Ord 58-92, §2, 5-20-92; Ord 148-09, §1, 10-13-09)

**Secs. 9-422. Reserved.**

## ARTICLE IX. RESERVED

Editor's Note: Article IX, Massage establishments and practitioners was repealed by Ordinance No. 36-05, Effective April 26, 2005.

**Secs. 9-423 – 9-490. Reserved.**

## ARTICLE X. MISCELLANEOUS SALES

### DIVISION 1. GENERALLY

**Secs. 9-491 – 9-545. Reserved.**

### DIVISION 2. CLOSE-OUT SALES AND OTHER BUSINESS TERMINATIONS*

**Sec. 9-546. Adoption of state law.**

The provisions of W.S.A. §100.18(3m) and §100.20(1m), exclusive of penalty, are hereby adopted by reference and made a part of this division. Wisconsin Administrative Code, chapter AG 124 is hereby adopted by reference and made a part of this division.
(Code 1965, §11.08(4))

**Sec. 9-547. Permit generally.**

(a) ***Permit required***. No person shall conduct at retail any closing-out sale of merchandise or conduct any sale of merchandise which is advertised or implied as one which will result in the termination of such business without a permit issued pursuant to this division.

(b) ***Application.*** Every person requiring a closing-out sale permit shall make application in writing on a form provided by the City Clerk. The application shall contain the legal name of the business and its address, the location of the sale, the names and addresses of the principals and agents and officers of the business and the name of the person who will conduct and be responsible for the sale and the purpose and duration of the sale.

(c) ***Fee; term; limitation on issuance***. The amount of the fee for such permit shall be on file in the office of the City Clerk. The fee shall be submitted by applicant at the time of application. Permits shall be issued for a period of ninety (90) consecutive days and no sale may exceed ninety (90) days. No more than one (1) permit per year may be issued to any applicant.

(d) ***Payment of outstanding taxes and fees***. No permit may be granted or issued to any applicant or for any premises upon which taxes or assessments or other financial claims of the City are delinquent or unpaid.

***Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.
(Code 1965, §11.08(1)--(3), (5); Ord 15-94, §1, 1-5-94)

**Sec. 9-548. Appeal of denial of permit.**

If the investigating authority denies an application for a permit under this division, the City Clerk shall forthwith notify the applicant by certified mail return receipt requested of the denial and the reason therefore. The notice shall indicate the date and time of the review of the denial by the Safety and Licensing Committee and the right of the applicant to appear before the committee. The Safety and Licensing Committee shall hear any person for or against granting the permit and shall report its recommendation to the Common Council, which shall grant or deny the permit.
(Ord 108-04, §1, 8-10-04)

**Sec. 9-549. Adding merchandise to inventory.**

No merchandise shall be added to the inventory of an individual or firm conducting a sale as specified in §9-547(a) after an application for a permit under this division is filed with the City Clerk.
(Code 1965, §11.08(6))

**Sec. 9-550. Access to business records.**

Every person applying for or operating with an approved permit as required under this division shall provide the City Clerk and the City sealer of weights and measures with full access to all business records, including inventories and packing slips, at the time of application and at any time during a sale under the approved permit.
(Code 1965, §11.08(7))

**Secs. 9-551 – 9-565. Reserved.**

## DIVISION 3. CHRISTMAS TREE SALES*

**Sec. 9-566. License generally.**

No person shall engage in the business of selling Christmas trees without a license obtained from the City Clerk pursuant to §9-21 et seq., and payment of the fee, the amount of which is on file in the office of the City Clerk. The license shall in no way be construed to affect existing or future zoning or land use.
(Code 1965, §§11.02(1), 11.17(1); Ord 147-91, §1, 12-19-91; Ord 16-94, §1, 1-5-94)

**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 9-567. Appeal of denial of license.**

If the investigating authority denies an application for a license under this division, the City Clerk shall forthwith notify the applicant by certified mail return receipt requested of the denial and the reason therefore. The notice shall indicate the date and time of the review of the denial by the Safety and Licensing Committee and the right of the applicant to appear before the committee. The Safety and Licensing Committee shall hear any person for or against granting the license and shall report its recommendation to the Common Council, which shall grant or deny the license.
(Ord 108-04, §1, 8-10-04)

**Sec. 9-568. Cleanup of lot.**

Any person licensed under this division shall at the close of his business season remove from the premises any unsold Christmas trees, wreaths and the like, and shall clean up the lot in a manner satisfactory to the Division of Inspection.
(Code 1965, §11.17(2); Ord 32-92, §1, 3-18-92; Ord 176-93, §1, 10-19-93; Ord 123-96, §1, 12-18-96)

**Secs. 9-569 – 9-585. Reserved.**

***Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18, license fee for Christmas tree dealers, §9-30(7).

**State law reference(s)--**Cutting or transporting of evergreen trees, W.S.A. §134.60.

## ARTICLE XI. PEDDLERS, SOLICITORS, CANVASSERS AND OTHER TRANSIENT MERCHANTS*

### DIVISION 1. GENERALLY

**Secs. 9-586 – 9-610. Reserved.**

### DIVISION 2. COMMERCIAL SOLICITATION

**Sec. 9-611. Definitions.**

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

***Personal solicitation*** includes solicitation made directly or indirectly by telephone, person-to-person contact, or by written or printed communication other than general advertising indicating a clear intent to sell goods or services at a regular place of business, and other than catalog or mail solicitation not accompanied by any other solicitation.

***Solicitation selling*** means the selling or leasing or the offering for sale or lease of goods or services primarily for personal, family or household purposes, including courses of instruction or training, where the sale, lease or offer thereof is either personally solicited or consummated by a seller at the residence or place of business or employment of the buyer, at a seller's transient quarters, or away from the seller's regular place of business. Persons involved in solicitation selling shall be considered transient merchants under this division, except for persons involved in solicitation for charitable, religious and similar purposes as regulated under Division 4 of this article.

***Transient merchant*** includes any peddler, solicitor, canvasser, or transient merchant, whether principal, agent or employee, who engages in, does or transacts any temporary or transient business in this City, either in one (1) location or by moving his place of business from place to place in the City, selling goods, wares or merchandise, or who solicits for such trade, and whether or not for the purpose of carrying on such business such individual hires, leases, occupies or uses a building, structure, vacant lot or railroad car or other vehicle for the exhibition or sale of such goods, wares and merchandise. The term shall include transient photographers and truckers.

***Transient quarters*** includes hotel or motel rooms or any other place utilized as a temporary business location.

***Vehicle*** shall mean any motor vehicle as defined by Wis. Stats. §340.01(35) or trailer as defined by Wis. Stats. §340.01(71).

(Code 1965, §11.04(1); Ord 167-89, §1, 12-6-89, Ord 25-05, §1, 4-12-05)

***Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; issuance of license, §9-21 et seq.

**Cross reference(s)--**Definitions and rules of construction generally, §1-2.

**Sec. 9-612. Exemptions from division.**

(a) This division shall not include:

(1) Persons selling services, goods or materials at wholesale to dealers in such articles;

(2) Newsboys;

(3) Children under eighteen (18) years of age selling magazines solely for their own profit;

(4) Vendors of dairy products, fruit juices, bakery goods, groceries or ice products to regular customers on established routes;

(5) Local area merchants or their employees, in delivering such goods in the regular course of business;

(6) A farmer or truck gardener who vends, sells or disposes of or offers to sell, vend or dispose of the products of the farm or garden occupied and cultivated by him or her, except as provided in §9-621;

(7) Artists selling art objects at art fairs or art auctions;

(8) Governmental agents in the performance of their official duties; or

(9) Transients operating as part of the licensed City farm market or licensed special event as identified in §9-617.

(b) This division shall not prohibit any sale required by statute or by order of any court, or prevent any person from conducting a bona fide auction sale pursuant to law.
(Code 1965, §11.04(2)(a), (b); Ord 86-94, §1, 7-20-94, Ord 25-05, §1, 4-12-05)

**Sec. 9-613. License required.**

No transient merchant shall vend, sell or dispose of or offer to vend, sell or dispose of goods, wares or merchandise, produce or any other thing at any place whatsoever within the City without first obtaining a license as set forth in this division.
(Code 1965, §11.04(3))

**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 9-614. Application for license; license fees.**

Any person desiring to engage in business for which a license is required under this division shall obtain a license application form from the City Clerk. The application shall state the nature of and the place where the business is to be carried on, the length of time for which a license is desired, a general description of the things intended to be sold, disposed of or contracted for, the name, date of birth and permanent address of all the employees to be covered by such license, the name and address of the person the applicant represents, and the place of residence of the applicant for the two (2) years previous. The requirements of §9-615 shall be complied with before the permit is issued. At the time of filing the application, an application fee shall be paid to the Director of Finance to cover the cost of the investigation of the facts stated in the application. The amount of the initial application fee shall be on file in the office of the City Clerk. For purposes of this section, an initial application is any application by a person who has not held a valid license under this division within three (3) years of the date of application. The application shall be sworn to by the applicant and filed with the City Clerk, and shall contain such additional information as the Chief of Police and City sealer shall require for the effective enforcement of this division and the safeguarding of the residents of the City from fraud, misconduct or abuse. Religious, charitable, patriotic or philanthropic agencies or their agents shall be required to comply with §9-641 et seq.
(Code 1965, §§11.02(18), 11.04(4)(a)(1); Ord 4-93, §1, 1-6-93; Ord 17-94, §1, 1-19-94)

**Sec. 9-615. License investigation.**

Upon receipt of an application for a license under this division, the Chief of Police and Sealer of Weights and Measures shall institute such investigation of the applicant as they deem necessary for the protection of the public good, and shall endorse their approval or disapproval upon the application within a reasonable time, not to exceed seven (7) working days, after it has been filed. The City Clerk shall issue approved licenses in accordance with such findings after presentation by the applicant of a receipt of the Director of Finance showing payment of the required fee. Should the investigations in this division include a recommendation for denial, the Clerk shall refer the license to the Safety and Licensing Committee for action.
(Code 1965, §11.04(4)(b); Ord 4-93, §1, 1-6-93, Ord 108-04, §1, 8-10-04)

**Sec. 9-616. Bond.**

If the Chief of Police determines from his or her investigation of the application for a license under this division that the interests of the City or of inhabitants of the City require protection against possible misconduct of the licensee or if the applicant is otherwise qualified but due to causes beyond his or her control is unable to supply all of the information required by §9-614, he or she may require the applicant to file with the City Clerk a bond in the sum of five hundred dollars ($500.00) with surety acceptable to the City Clerk, running to the City, conditioned that the

applicant will fully comply with the ordinances of the City and laws of the state relating to peddlers, solicitors, canvassers or transient merchants and guaranteeing to any citizen of the City doing business with him or her that the property purchased will be delivered according to the representations of the applicant, provided that action to recover on any such bond shall be commenced within six (6) months after the expiration of the license of the principal.
(Code 1965, §11.04(4)(c), Ord 25-05, §1, 4-12-05)

**Sec. 9-617. Issuance and term of license; restrictions on use; identification card.**

Licenses required under this division shall be issued for six (6) month terms to run from April 1 through September 30 and October 1 through March 31. Any license that expires on December 31, 2007 may be renewed for 2008 for a nine (9) month period from January 1, 2008 through September 30, 2008. All licenses shall be numbered in the order in which they are issued and shall state clearly the place where the business may be carried on, the kind of goods, wares and merchandise to be sold, disposed of or contracted for, the dates of issuance and expiration of the license. Licenses issued under this division shall not be valid on public or private property located within the CBD Central Business District on the following special event days: Flag Day Parade, Octoberfest and Christmas Parade, or within a two (2) block radius of any other special event held within the corporate limits of the City. No license shall be granted to a person under eighteen (18) years of age unless a street trade permit is obtained pursuant to §103.25 and no applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six (6) months has elapsed since the last previous rejection or revocation, unless he or she can show that the reason for such rejection or revocation no longer exists. Every license holder, while exercising his or her license, shall post the license in a conspicuous place on the premises or his or her person and shall exhibit the license upon demand of any officer, customer or prospective vendee. A license shall not be assignable and any holder of such license who allows it to be used by any other person shall be in violation of this division. Whenever a license is lost or destroyed, a duplicate in lieu thereof may be issued by the City Clerk under the original application upon the filing with him by the license holder of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for the recovery of the license, and upon the payment of a fee. All licensees shall be issued a photo identification card by the City Clerk at the time the license is issued. Any agent or employee of the licensee shall obtain a photo identification card for a fee. The amount of the fee for the lost license and photo identification card shall be on file in the office of the City Clerk.
(Code 1965, §11.04(4)(D); Ord 48-89, §1, 3-15-89; Ord 125-89, §2, 9-20-89; Ord 83-90, §1, 9-20-90; Ord 18-94, §1, 1-5-94, Ord 186-02, §1, 9-24-02, Ord 107-04, §1, 8-10-04, Ord 25-05, §1, 4-12-05; Ord 160-07, §1, 12-11-07; Ord 143-11, §1, 6-7-11)

**Sec. 9-618. Appeal of denial of license.**

If the investigating authority denies an application for a license under this division, the City Clerk shall forthwith notify the applicant by mail of the denial and the reason therefore. The notice shall indicate the date and time of the review of the denial by the Safety and Licensing Committee and the right of the applicant to appear before the committee. The Safety and Licensing Committee shall hear any person for or against granting the license and shall report its recommendation to the Common Council, which shall grant or deny the license.
(Ord 108-04, §1, 8-10-04; Ord 7-15, §1, 2-24-15)

**Sec. 9-619. Surrender of license; alteration of license; failure to display license.**

On the expiration of a license issued under this division, the holder shall surrender the license to the Chief of Police. No person shall alter or change in any manner any license issued under the provisions of this division, and such alteration or the failure of the holder of the license to display the license in a conspicuous place on the premises or his or her person or to exhibit the license upon demand of any officer or customer or prospective vendee shall be cause for revocation of such license.
(Code 1965, §11.04(5), Ord 25-05, §1, 4-12-05)

**Sec. 9-620. Prepayments.**

All orders taken by a license holder under this division who accepts or receives payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one (1) copy shall be given to the purchaser at the time the deposit of money is paid.
(Code 1965, §11.04(6))

**Sec. 9-621. Conduct of business generally – commercial solicitation licenseholders.**

A transient merchant holding a license under this division shall be subject to the following:

(a) A licensee shall not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome or tainted food or foodstuffs, nor intentionally misrepresent to any prospective customer the purpose of his or her visit or solicitation, the name of the business of his or her principal, if any, the source of supply of the goods, wares or merchandise which he or she sells or offers for sale or the disposition of the proceeds or profits of his or her sales.

(b) A licensee shall not use the license provided by the City after expiration or revocation of the license.

(c) A licensee shall keep the premises in a clean and sanitary condition and the foodstuffs offered for sale well covered and protected from dirt, dust and insects. All food vendors shall comply with the requirements of state and local authorities, including, but not limited to the provisions of Article VI of this chapter.

(d) A licensee shall not have any exclusive right to any location in the public streets nor do business in a stationary location nor operate in a congested area of the public streets where such operation impedes or inconveniences public use. No licensee shall engage in the licensed business in any public park, playground, school, library or other public premises. For the purpose of this subsection, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

(e) A licensee shall not vend, sell or dispose of or offer to vend, sell or dispose of or solicit orders for the sale of goods; wares or merchandise, or enter upon the premises for any of these purposes, on any residential property posted with an appropriate sign in a conspicuous place which sign states "No Peddlers" or "No Soliciting" or words to like effect.

(f) A licensee shall not vend, sell or dispose of or offer to sell, vend, or dispose of or solicit orders for the sale of goods; wares, or merchandise, or enter upon any premises for any of these purposes, between the hours of 9:00 p.m. and 8:00 a.m.
(Code 1965, §11.04(8), Ord 104-04, §1, 7-27-04, Ord 125-04, §1, 9-21-04, Ord 25-05, §1, 4-12-05)

**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 9-622. Vending of products from vehicles in the public streets.**

(a) No product shall be sold from a vehicle in any public street in the City of Appleton except in compliance with the requirements of this section.

(b) Any vehicle used for vending a product in any public street must be designed and constructed specifically for the purpose of vending the product or products to be vended.

(c) Each such vehicle shall be licensed for such use by the state or local agency having jurisdiction over the use of such vehicles depending upon the nature of the products sold.

(d) Each such vehicle must have valid license plates and registration as provided by Chapter 341 of the Wisconsin Statutes.

(e) A vehicle which is operated for the purpose of selling products from the vehicle in the public streets shall be operated only by a person who shall have obtained a license under this division.

(f) In addition, the operator or the owner of the vehicle shall furnish proof of current insurance issued by an insurance company authorized to do business in the State of Wisconsin and shall maintain such insurance as a condition of licensing under this division. The insurance shall provide coverage for bodily injury, including accidental death, as well as for claims for property damage which may arise from the operations under the license. The policy limits of such insurance shall be the same as those required for a Street Occupancy Permit.

(g) Amplified music or other sounds from any vehicle used for the purpose of vending products in the public streets shall comply with the applicable requirements of Chapter 12, Article IV of this code pertaining to noise.

(h) No sales shall be made from a vehicle except from the curbside of said vehicle.

(i) No vehicle may violate any traffic or parking statute or ordinance when stopping to make a sale.
(Ord 25-05, §1, 4-12-05)

**Sec. 9-623. License suspension.**

The Chief of Police, Health Officer, Sealer of Weights and Measures or designees thereof may summarily suspend a license issued under this division when necessary to protect the health, safety or welfare of the public. If the licensee wishes to contest the suspension, a written notice objecting to the suspension, stating specific reasons for the objection and requesting a hearing shall be delivered to the City Clerk within five (5) business days of the suspension order being issued. Upon receipt of such objection, the matter shall be scheduled for review by the Safety and Licensing Committee. If the license holder fails to file a written objection within the stated time, the license suspension shall continue for the duration of the license or until the expiration of an established suspension period, whichever is shorter.
(Ord 161-07, §1, 12-11-07)

**Secs. 9-624 – 9-625. Reserved.**

## DIVISION 3. CENTRAL BUSINESS DISTRICT STREET VENDORS

### Sec. 9-626. Purpose.

It is the intent of the Common Council to control and regulate the use of streets and sidewalks to the end that the safe use of sidewalks by pedestrians and roads by vehicles is ensured and the health, safety and general welfare of the public is protected and maintained. Consistent with this policy, the purpose of these regulations is to assure the safe and orderly performance of selling on streets and sidewalks within the Central Business District.
(Ord 73-12, §1, 8-21-12)

### Sec. 9-627. Definitions.

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

***Amenity strip*** shall mean the area between the curb and the defined pedestrian right-of-way along College Avenue between Richmond Street and Drew Street. On all other streets, amenity strip shall mean a minimum four- (4-) foot width between the curb and an eight- (8-) foot pedestrian right-of-way.

***CBD street vendor*** means any person who sells or offers for sale any goods, wares, merchandise, or services for sale in the CBD (Central Business District) from any mobile unit which is propelled by human power, including mobile food establishments.

***Mobile food establishment*** means a restaurant or retail food establishment where food is served or sold from a movable vehicle, push cart, or trailer which periodically or continuously changes location and requires a service base to accommodate the unit for servicing, cleaning, inspection and maintenance or except as specified in the Wisconsin Food Code. Mobile food establishment does not include a vehicle which is used solely to transport or deliver food or a common carrier regulated by the state or federal government.

***Mobile sidewalk/amenity strip unit*** shall mean a pushcart or other device which is on wheels and of sufficiently lightweight construction that it can be moved from place to place by one (1) adult person without any auxiliary power. The device shall not be motorized so as to move on its own power.

***On-street unit*** shall mean any vehicle or pedal-powered unit that is readily movable, and designed and equipped to prepare, serve, or sell food.

***Vehicle*** shall mean any motor vehicle as defined by Wis. Stats. §340.01(35) or trailer as defined by Wis. Stats. §340.01(71).
(Ord 25-05, §1, 4-12-05; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

### Sec. 9-628. License and Street Occupancy Permit required.

(a) No CBD street vendor shall vend, sell or dispose of or offer to vend, sell or dispose of goods, wares or merchandise, produce or any other thing at any place whatsoever within the CBD without first obtaining a license as set forth in this division. Licensees may obtain no more than two (2) Street Occupancy Permits for any portion of the Central Business District west of Appleton Street; and no more than two (2) Street Occupancy Permits for any portion of the Central Business District east of Appleton Street.

(b) No more than eight (8) Street Occupancy Permits for mobile sidewalk/amenity strip units shall be issued between Appleton Street and Richmond Street. No more than eight (8) Street Occupancy Permits for mobile sidewalk/amenity strip units shall be issued between Appleton Street and Drew Street on College Avenue. This shall include all vendors using such units, whether vending goods or food.

(c) No more than two (2) Street Occupancy Permits for mobile sidewalk/amenity strip units shall be issued per block. One (1) block shall be defined to mean the area between intersections on a single side of the street.

(d) No more than four (4) Licenses may be issued for on-street units.
(Ord 25-05, §1, 4-12-05; Ord 76-11, §1, 4-12-11; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

### Sec. 9-629. Liability insurance.

To hold a Street Occupancy Permit, the permit holder must have in force liability insurance and must agree to indemnify, defend and hold the City, its employees and agents harmless against all claims, liability, loss, damage, or expense incurred by the City as a result of any injury to or death of any person or damage to property caused by or resulting from the activities for which the permit is granted. As evidence of liability insurance, the permit holder shall furnish a Certificate of Insurance, on a form acceptable to the City, evidencing the existence of adequate liability insurance naming the City of Appleton, it employees and agents as additional insureds in an amount not less than one million dollars ($1,000,000). Whenever such policy is cancelled, not renewed, or materially changed the insurer and the permit holder shall notify the City of Appleton by certified mail.
(Ord 25-05, §1, 4-12-05; 76-11, §1, 4-12-11; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

**Sec. 9-630. Application for license; license fees.**

(a) ***Non-food vendors***. Any person desiring to engage in business vending goods other than mobile food establishments, for which a license is required under this division shall obtain a Street Occupancy Permit/License Application form from the Department of Public Works. The application shall state the nature of and the place where the business is to be carried on, a general description of the things intended to be sold, disposed of or contracted for, the name, date of birth and permanent address of all the employees to be covered by such license, the name and address of the person the applicant represents, and the place of residence of the applicant for the two (2) years previous. The requirements of §9-631 shall be complied with before the permit is issued. At the time of filing the application, an application fee shall be paid to the Director of Finance to cover the cost of the investigation of the facts stated in the application. The amount of the initial application fee shall be on file in the Department of Public Works. For purposes of this section, an initial application is any application by a person who has not held a valid license under this division within three (3) years of the date of application. The application shall be sworn to by the applicant and filed with the Department of Public Works, and shall contain such additional information as the Chief of Police and City Sealer shall require for the effective enforcement of this division and the safeguarding of the residents of the City from fraud, misconduct or abuse. Religious, charitable, patriotic or philanthropic agencies or their agents shall be required to comply with §9-641 et seq.

(b) ***Food vendors***. Any person desiring to engage in business as a mobile food establishment, for which a license is required under this division shall first obtain a Mobile Food Service License from the Department of Health. The Department of Health will advise the applicant of the available locations for mobile sidewalk/amenity strip units. The applicants then obtain a Street Occupancy Permit/License Application form from the Department of Public Works. The application shall state the nature of and the place where the business is to be carried on, a general description of the foodstuffs to be sold, the name, date of birth and permanent address of all the employees to be covered by such license, the name and address of the person the applicant represents, and the place of residence of the applicant for the two (2) years previous. The requirements of §9-631 shall be complied with before the permit is issued. At the time of filing the application, an application fee shall be paid to the Director of Finance to cover the cost of the investigation of the facts stated in the application. The amount of the initial application fee shall be on file in the Department of Public Works. For purposes of this section, an initial application is any application by a person who has not held a valid license under this division within three (3) years of the date of application. The application shall be sworn to by the applicant and filed with the Department of Public Works, and shall contain such additional information as the Chief of Police shall require for the effective enforcement of this division and the safeguarding of the residents of the City from fraud, misconduct or abuse. Religious, charitable, patriotic or philanthropic agencies or their agents shall be required to comply with §9-641 et seq.
(Ord 25-05, §1, 4-12-05; Ord 3-12; §1, 1-10-12; Ord 73-12, §1, 8-21-12)

**Sec. 9-631. License investigation.**

Upon receipt of an application for a license under this division, the Chief of Police and Sealer of Weights and Measures shall institute such investigation of the applicant as they deem necessary for the protection of the public good, and shall endorse their approval or disapproval upon the application within a reasonable time, not to exceed seven (7) working days, after it has been filed. The Department of Public Works shall issue approved Street Occupancy Permits/Licenses in accordance with such findings after presentation by the applicant of a receipt of the Director of Finance showing payment of the required fee. Should the investigations in this division include a recommendation for denial, the Department of Public Works shall refer the license to the Municipal Services Committee for action.
(Ord 25-05, §1, 4-12-05; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

**Sec. 9-632. Bond.**

If the Chief of Police determines from his or her investigation of the application for a license under this division that the interests of the City or of inhabitants of the City require protection against possible misconduct of the licensee or if the applicant is otherwise qualified but due to causes beyond his or her control is unable to supply all of the information required by §9-630, he or she may require the applicant to file with the City Clerk a bond in the sum of five hundred dollars ($500) with surety acceptable to the Department of Public Works, running to the City, conditioned that the applicant will fully comply with the ordinances of the City and laws of the state relating to peddlers, solicitors, canvassers or transient merchants and guaranteeing to any citizen of the City doing business with him or her that the property purchased will be delivered according to the representations of the applicant, provided that action to recover on any such bond shall be commenced within six (6) months after the expiration of the license of the principal.
(Ord 25-05, §1, 4-12-05; Ord 76-11, §1, 4-12-11; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

**Sec. 9-633. Issuance and term of Street Occupancy Permit/License; restrictions on use; identification card.**

(a) In order to obtain a CBD Street Vendor Street Occupancy Permit/License, the license holder must exhibit a valid certificate of insurance as required by §9-628 of this article. Licenses and Street Occupancy Permits required under this division shall be issued on a calendar year basis beginning on January 1 and expiring on December 31.

(b) Street Occupancy Permits/Licenses for CBD Street Vendors using mobile sidewalk/amenity strip units shall be issued on a calendar year basis beginning on January 1 and expiring on December 31. At the time of the application for a Street Occupancy Permit, there shall be notification to the business at the address applied for, and the adjacent business owners.

(c) Mobile food establishments with on-street units shall not receive a Street Occupancy Permit, however they will require a license under this article, the fee for which shall be the same as for the Street Occupancy Permit/License.

(d) All Street Occupancy Permits/Licenses shall be numbered in the order in which they are issued and shall state clearly the place where the business may be carried on, including the location of mobile sidewalk/amenity strip units used by CBD street vendors, as well as the kind of goods, wares and merchandise to be sold, disposed of or contracted for, the dates of issuance and expiration of the license.

(e) The Department of Public Works, by the method they deem appropriate, shall clearly designate the location on the amenity strip each mobile sidewalk/amenity strip unit is licensed to use for sales. In no circumstance shall any of said licensed areas be within twenty (20) feet of another mobile sidewalk/amenity strip unit's licensed area.

(f) Licenses issued under this division shall not be valid on the following special event days: Flag Day Parade, License to Cruise/Octoberfest, and Christmas Parade; and no vendor shall operate within the Farmers Market solely under this permit. Any CBD vendor must obtain space from the Farmers Market organizers to operate within those confines. No CBD vendor may operate within a two (2) block radius of any other special event held within the corporate limits of the city. No license shall be granted to a person under eighteen (18) years of age unless a street trade permit is obtained pursuant to W.S.A. §103.25 and no applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six (6) months has elapsed since the last previous rejection or revocation, unless he or she can show that the reason for such rejection or revocation no longer exists. Every license holder, while exercising his or her license, shall post the license in a conspicuous place on the premises or his or her person and shall exhibit the license upon demand of any officer, customer or prospective vendee. A license shall not be assignable and any holder of such license who allows it to be used by any other person shall be in violation of this division. Whenever a license is lost or destroyed, a duplicate in lieu thereof may be issued by the Department of Public Works under the original application upon the filing with him or her by the license holder of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for the recovery of the license, and upon the payment of a fee. All licensees shall be issued a photo identification card by the City Clerk at the time the license is issued. Any agent or employee of the licensee shall obtain a photo identification card. The amount of the fee for the lost license and photo identification card shall be on file in the office of the City Clerk.

(g) Any licensee under this division who wishes to change the location of mobile sidewalk/amenity strip units licensed under this division shall be allowed to request one (1) change in location per unit during a license year. The licensee must relinquish the Street Occupancy Permit/License for the abandoned location, and obtain a Street Occupancy Permit/License for the new location. An administrative fee, on file with the Department of Public Works shall be charged for the change and re-issuance of the license. The new location must meet all the applicable restrictions under this division.
(Ord 285-05, §1, 4-12-05; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

**Sec. 9-634. Appeal of denial of license.**

If the investigating authority denies an application for a license under this division, the Department of Public Works shall forthwith notify the applicant by certified mail, return receipt requested, of the denial and the reason therefore. The notice shall indicate the date and time of the review of the denial by the Municipal Services Committee and the right of the applicant to appear before the Committee. The Municipal Services Committee shall hear any person for or against granting the license and shall report its recommendation to the Common Council, which shall grant or deny the license.
(Ord 25-05, §1, 4-12-05; Ord 76-11, §1, 4-12-11; Ord 3-12, §1, 1-10-12, Ord 73-12, §1, 8-21-12)

**Sec. 9-635. Revocation of license.**

The Common Council may revoke any license under this division pursuant to §9-29 for violation by any vendor or his or her employee or agent of any provision of this division or any ordinance of the City which renders future vending inimical to the public health, safety or welfare, or for fraud or misrepresentation in solicitation under this division.

(Ord 25-05, §1, 4-12-05; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

**Sec. 9-636. Renewal of CBD Street Vendor Licenses.**

In order to renew a CBD Street Vendor Street Occupancy Permit/License, the license holder must exhibit to the Department of Public Works a valid certificate of insurance as required by §9-629 above. A CBD Street Vendor using a mobile sidewalk/amenity strip unit who wishes to retain the same location upon renewal of a license must renew their Street Occupancy Permit/License no later than December 15, otherwise the location will be made available to any licensee. The same procedure for initial application shall apply to renewals.
(Ord 25-05, §1, 4-12-05; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

**Sec. 9-637. Surrender of license; alteration of license; failure to display license.**

On the expiration of a license issued under this division, the holder shall surrender the license to the Chief of Police. No person shall alter or change in any manner any license issued under the provisions of this division, and such alteration or the failure of the holder of the license to display the license in a conspicuous place on the premises or his or her person or to exhibit the license upon demand of any officer or customer or prospective vendee shall be cause for revocation of such license.
(Ord 25-05, §1, 4-12-05; Ord 76-11, §1, 4-12-11; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

**Sec. 9-638. Prepayments.**

All orders taken by a license holder under this division who accepts or receives payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one (1) copy shall be given to the purchaser at the time the deposit of money is paid.
(Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

**Sec. 9-639. Conduct of business generally – CBD street vendors.**

A CBD street vendor holding a license under this division shall be subject to the following:

(a) A licensee shall not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome or tainted food or foodstuffs, nor intentionally misrepresent to any prospective customer the purpose of his or her solicitation, the name of the business of his or her principal, if any, the source of supply of the goods, wares or merchandise which he or she sells or offers for sale or the disposition of the proceeds or profits of his or her sales.

(b) A licensee shall not use the license provided by the City after expiration or revocation of the license.

(c) A licensee shall keep the premises in a clean and sanitary condition and the foodstuffs offered for sale well covered and protected from dirt, dust and insects. All food vendors shall comply with the requirements of state and local authorities, including, but not limited to, the provisions of Article VI of this chapter.

(d) A licensee shall not operate in a congested area where such operation impedes or inconveniences public use. No licensee shall engage in the licensed business in any public park, playground, school, library or other public premises. For the purpose of this subsection, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

(e) A licensee may vend, sell or dispose of, or offer to sell, vend, or dispose of goods, wares, or merchandise, between the hours of 8:00 a.m. and 9:00 p.m., except between Drew Street and Richmond Street on College Avenue, where sales shall be allowed between 8:00 a.m. and 4:00 a.m.

(f) The operating area shall not exceed thirty-two (32) square feet of sidewalk/amenity strip area, including the area of the mobile unit, the operator, and when externally located, a trash receptacle.

(g) The length of the mobile unit shall not exceed eight (8) feet.

(h) The height of the mobile unit, excluding canopies, umbrellas, or transparent enclosures, shall not exceed six (6) feet.

(i) The mobile unit shall be entirely self-contained in regards to gas, water, electricity, and equipment required for operation of the unit. This includes any signage associated with the vendor.

(j) No person may conduct business on a sidewalk in any of the following places:

(1) Within twenty (20) feet of the intersection of the sidewalk with any other sidewalk except on the amenity strip on College Avenue between Drew Street and Richmond Street.

(2) Within ten (10) feet of the extension of any building entrance or doorway to the curb line.

(3) Within fifty (50) feet of the main entrance of any business selling same or similar products during the hours said business is open for the

sale of said products, unless written permission is granted by said business and such documentation is placed on file with the Department of Public Works.

(4) Once a vendor is licensed, and a Street Occupancy Permit has been obtained, the change of use of those businesses in buildings within the fifty (50) feet limitation noted above shall not affect an existing license nor the timely renewal of the same.

(k) All persons conducting business on a sidewalk or amenity strip must pick up any paper, cardboard, wood or plastic containers, wrappers, or any litter in any form that is deposited by any person on the sidewalk or street within twenty-five (25) feet of the place of conducting business. Each person conducting business on a sidewalk or amenity strip under the provisions of this division shall carry a suitable container for placement of such litter by customers or other persons.

(l) Vendors shall maintain their sales location in a clean, hazard-free condition, and shall not discharge materials onto the sidewalk, gutters or storm drain. All liquid residue must be cleaned up, or in the alternative, protective matting may be placed on the amenity strip to absorb any liquid residue. Said matting must be removed when the vendor closes for the day.

(m) No person may make any loud unreasonable noise of any kind by vocalization or otherwise for the purpose of advertising or attracting attention to his or her wares.

(n) No person shall conduct business as defined herein at a location other than that designated on his or her Street Occupancy Permit/License.

(o) No permitted mobile sidewalk/amenity strip units shall be left unattended on a sidewalk or amenity strip nor remain on the sidewalk or amenity strip between 4:00 a.m. and 8 a.m.
(Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

**Sec. 9-640. Vending of products from vehicles or other on-street unit in the public streets.**

(a) No food shall be sold from a vehicle other or on-street unit in any public street in the City of Appleton except in compliance with the requirements of this section and §9-639 above.

(b) Any vehicle or other on-street unit used for vending food in any public street must be designed and constructed specifically for the purpose of vending the product or products to be vended.

(c) Each such vehicle or other on-street unit used for vending food shall be licensed for such use by the Department of Health.

(d) If such vehicle or other on-street unit is a motor vehicle, it must have valid license plates and registration as provided by Chapter 341 of the Wisconsin Statutes.

(e) A vehicle or other on-street unit which is operated for the purpose of selling food from the unit in the public streets shall be operated only by a person who shall have obtained a license under this division.

(f) In addition, the operator or the owner of any motor vehicle shall furnish proof of current insurance issued by an insurance company authorized to do business in the State of Wisconsin and shall maintain such insurance as a condition of licensing under this division. The insurance shall provide coverage for bodily injury, including accidental death, as well as for claims for property damage which may arise from the operations under the license. The policy limits of such insurance shall be the same as those required in §9-629 above.

(g) Amplified music or other sounds from any vehicle used for the purpose of vending products in the public streets shall comply with the applicable requirements of Chapter 12, Article IV of this code pertaining to noise.

(h) No sales shall be made from a vehicle except from the curbside of said vehicle.

(i) No sales shall be made within fifty (50) feet of the main entrance of any business selling same or similar products during the hours said business is open for the sale of said products, unless written permission is granted by said business and such documentation is placed on file with the Department of Public Works.

(j) No vehicle may violate any traffic or parking statute or ordinance when stopping to make sales. This includes plugging parking meters, if applicable and not remaining in a location for a longer period of time than the meter allows. Meter bags will not be issued to license holders under this article.

(k) No on-street unit may park adjacent to a sidewalk café or an establishment with a Street Occupancy Permit for tables and chairs when the tables and chairs are present on the amenity strip.
(Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)
**Editor's Note:** Chapter 9, Division 3 was repealed and recreated via ordinance 3-12 adopted by the Common Council on January 1, 2012, published January 9, 2012 and became effective January 10, 2012.
**Editor's Note:** Chapter 9, Division 3 was repealed and recreated via ordinance 73-12 adopted by the Common Council on August 15, 2012, published August 20, 2012 and became effective August 21, 2012.

## DIVISION 4. CHARITABLE SOLICITATION*

### Sec. 9-641. Definitions.

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

***Charitable organization*** means any of the following:

(1) An organization that is described in §501(b)(3) of the Internal Revenue Code and that is exempt from taxation under §501(a) of the Internal Revenue Code.

(2) A person who is or purports to be established for a charitable purpose.

***Charitable purpose*** means any of the following:

(1) A purpose described in §501(c)(3) of the Internal Revenue Code.

(2) A benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civil or other eleemosynary.

***Solicit*** means to request directly or indirectly, a contribution and to state or imply that the contribution will be used for a charitable purpose or will benefit a charitable organization.

***Solicitation*** means the act or practice or soliciting, whether or not the person soliciting receives any contribution. "Solicitation" includes any of the following methods of requesting or securing a contribution:

(1) An oral or written request.

(2) An announcement to the news media or by radio, television, telephone or other transmission of images or information concerning the request for contributions by or for charitable organization or charitable purpose.

(3) Distribution or posting of a handbill, written advertisements, or other publications which directly or indirectly or by implication seeks contributions.

(4) The sale of or offer or attempt to sell a membership or advertisement, advertising place, book, card, tag, coupon, device, magazine, merchandise, prescription, flower, ticket, candy, cookie or other tangible item in connection with any of the following:

a. A request for financial support for a charitable organization or charitable purpose.

b. The use of or reference to the name of a charitable organization as a reason for making a purchase.

c. A statement that all or part of the proceeds from the sale will be used for a charitable purpose or will benefit a charitable organization.

(Ord 120-94, §1, 9-21-94; Ord 35-95, §1, 4-19-95)

**Editor's note –** Ord 120-94, §1, adopted 9-21-94, amended Div. 3, in its entirety, to read as herein set out in §9-641—§9-647.

### Sec. 9-642. Exemptions from division.

This division shall not apply to solicitations conducted among the members of any association or organization by the members thereof where no remuneration is paid for making such solicitations, or if the solicitations are in the form of collections or contributions at regular assemblies or services of any association or organization.

(Ord 120-94, §1, 9-21-94)

### Sec. 9-643. Permit required.

No person shall solicit or request anything of value for a purported charitable, religious, patriotic, philanthropic, social service, welfare, benevolent, educational, civic or fraternal purpose without a permit therefore from the City Clerk issued to him or his principal.

(Ord 120-94, §1, 9-21-94)

### Sec. 9-644. Application for permit; issuance of permit.

(a) ***Application.*** Application for a solicitation permit under this division shall be made by the person in charge of or responsible for all activities of all activities of solicitors within the City. Such applications shall state:

(1) The name and address of the applicant.

(2) The services provided for a fee or the merchandise to be solicited.

(3) The dates when such solicitations will be made.

(b) ***Granting.*** The City Clerk shall issue a permit upon completion of the application.

(c) ***Fee.*** The amount of the fee for a permit under this division shall be on file with the office of the City Clerk.

(d) ***Form of permit***. The form of the permit shall be prescribed by the City Clerk and the permit shall contain such information as the City Clerk shall consider reasonably necessary to protect the public from improper solicitation.
(Ord 120-94, §1, 9-21-94)

**Sec. 9-645. Expiration of permit.**

A permit issued under this division shall expire on the last day of solicitation stated in the application, which shall be not more than ninety (90) days after the date of application unless extended by the City Clerk upon a showing of unnecessary hardship for not to exceed an additional ninety (90) days.
(Ord 120-94, §1, 9-21-94)

**Sec. 9-646. Revocation of permit.**

The Common Council may revoke any permit under this division pursuant to §9-29 for violation by any solicitor or his principal or agent of any provision of this division or any ordinance of the City which renders future solicitations inimical to the public health, safety or welfare, or for fraud or misrepresentation in solicitation under this division.
(Ord 120-94, §1, 9-21-94)

**Sec. 9-647. Hours of solicitation.**

No person shall solicit door to door between the hours of 9:00 p.m. and 8:00 a.m.
(Ord 120-94, §1, 9-21-94; Ord 36-95, §1, 4-19-95)

**Secs. 9-648 – 9-670. Reserved.**

## ARTICLE XII. PUBLIC SWIMMING POOLS*

**Sec. 9-671. Definition.**

For purposes of this article, public swimming pool shall mean any premises or place as defined or classified by Wisconsin Administrative Code, §SPS 390.03.
(Code 1965, §7.20(2), Ord 23-03, §1, 1-21-03; Ord 25-12, §1, 3-7-12)
**Cross reference(s)--**Definitions and rules of construction generally, §1-2.

**Sec. 9-672. License required.**

No person shall own, operate or manage a public swimming pool without obtaining a license from the Health Department.
(Code 1965, §7.20(1))
**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 9-673. Fees.**

(a) The fee for a public swimming pool license is on file with the Department of Health.

(b) In addition, the applicant must pay any state administrative fees, the amount of which is on file with the Department of Health.
(Code 1965, §7.15(F); Ord 100-90, §1(f), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 43-93, §1, 3-17-93)

**Sec. 9-674. Application for license.**

Application for a license required in this article shall be made to the Health Department upon a form furnished by the Department and shall contain such information which the Department may prescribe and require and shall be accompanied by payment of the applicable fee.
(Code 1965, §7.15(2); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

**Sec. 9-675. Issuance of license generally.**

Licenses required under this article, when approved by the Health Department, shall be issued by the Health Officer. A selective or restrictive permit may be issued by the Health Officer on his determination of conformance with appropriate standards and good public health practices.
(Code 1965, §7.15(3); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 7-08, §1, 2-26-08)
***Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; private swimming pools, §4-541 et seq.

**Sec. 9-676. Inspection required prior to granting of license; fee.**

A license will not be granted under this article to an operator of a new establishment or to a new operator of an existing establishment without a preinspection. A preinspection fee will be assessed for each establishment according to the schedule on file with the Health Department.
(Code 1965, §7.15(10); Ord 100-90, §1J(10), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 44-93, §1, 3-17-93)

**Sec. 9-677. Transfer of license; issuance to agent or employee.**

No license issued under this article may be transferred unless otherwise provided by the ordinances of the City. No license shall be issued to or used by any person acting as agent for or in the employ of another.
(Code 1965, §7.15(9); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

**Sec. 9-678. Expiration and renewal of license.**

Except where otherwise provided, every Health Department license shall terminate or expire on June 30 of each year and may be renewed annually thereafter. The application for renewal shall be filed with the Health Department on or before June 30, together with payment of the required fee. The fee for said license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Health Department. If the annual renewal fee has not been paid on or before June 30, an additional late payment fee shall be required, the amount if which is on file with the Health Department. Establishments operating on July 15 without a proper license shall be ordered closed by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18. Each violation and each day a violation continues or occurs shall constitute a separate offense.
(Code 1965, §7.15(4))(Ord 100-90, §1J(4), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92, Ord 106-95, §1, 11-15-95; Ord 74-96, §1, 9-4-96)

**Sec. 9-679. Suspension or revocation of license.**

The Health Officer may suspend or revoke any license issued pursuant to this article for violations of ordinances or laws regulating the licensed activity and for other good cause.
(Code 1965, §7.15(8)(a); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

**Sec. 9-680. Right of entry; testing of samples.**

The Health Officer may enter any establishment required to be licensed in this article at all reasonable times to inspect the premises, secure samples or specimens, examine and copy documents, obtain photographs, or take any other action he deems necessary to properly enforce the provisions of applicable laws regulating such business or activity. Samples of water from any licensed premises may be taken and examined by the Health Officer at such time as he deems necessary, for detection of microbiological quality, chemical disinfection, or any other enforcement purposes. Standards and definitions set forth in Wisconsin Administrative Code ATCP §76 are hereby adopted as reference and incorporated as part of this section.
(Code 1965, §7.15(5); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91, Ord 23-03, §1, 1-21-03; Ord 85-16, §1, 11-8-16)

**Sec. 9-681. Correction of violations; citations.**

Whenever the Health Officer finds that any establishment required to obtain a license in this article is not operating or equipped in any manner required by ordinances or laws regulating such establishment, the Health Officer may notify, in writing, the person operating the premises, specifying the requirements of such ordinance or law, and requiring that such business comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Health Officer. The Health Officer may also request the issuance of citations for any such violations pursuant to the provisions of §1-17.
(Code 1965, §7.15(6))

**Sec. 9-682. Emergency powers of Health Officer.**

Whenever the Health Officer has reasonable or probable cause to believe that any sanitary condition, equipment, premises or method of operation thereof creates a danger to public health, the Health Officer may issue a temporary order prohibiting the continued operation of the premises or any part thereof which creates the immediate danger to health. The Health Officer may suspend any license without notice whenever the licensed premises constitutes an immediate health hazard.
(Code 1965, §7.15(7); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

**Sec. 9-683. Appeals.**

Any person aggrieved by the denial of a license or by suspension or revocation of a license required under this article by the Health Officer or by any temporary

suspension or any other order may appeal any such order to the Board of Health within thirty (30) days of suspension, revocation or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order pending determination of the appeal. The Board of Health may affirm, modify, or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings relating to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record
(Code 1965, §7.15(8)(b); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

**Sec. 9-684. State sanitation regulations adopted.**

All public swimming pools and licensees under this article shall be subject to and comply with the provisions of Wisconsin Administrative Code, SPS 390 or ATCP §76 as applicable.
(Code 1965, §7.20(3); Ord 147-94, §1, 12-7-94; Ord 76-96, §1, 9-4-96, Ord 23-03, §1, 1-21-03; Ord 25-12, §1, 3-7-12; Ord 86-16, §1, 11-8-16)
**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; permits, §4-546.

**Sec. 9-685. Authority to close pools.**

In addition to the closing criteria set forth in Wisconsin Administrative Code, ATCP §76, the Health Officer may order any public swimming pool closed if the following conditions exist:

(1) Bacteriological or chemical analysis of water samples exceeds those standards listed in Wisconsin Administrative Code, ATCP §76.30 or the presence of Pseudomonas aeruginosa or any other microbiological pathogen capable of transmitting a communicable disease is detected; or

(2) Any imminent health or safety hazard is identified.

(Code 1965, §7.20(3), Ord 23-03, §1, 1-21-03; Ord 87-16, §1, 11-8-16)

**Secs. 9-686 – 9-695. Reserved.**

## ARTICLE XIII. VEHICLES FOR HIRE

### DIVISION 1. GENERALLY

**Secs. 9-695 – 9-719. Reserved.**

## DIVISION 2. TAXICABS AND SIMILAR SERVICES*

### Sec. 9-720. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to this section, except where the context clearly indicates a different meaning.

***Taxicab*** shall means any vehicle (1) carrying passengers for hire (2) on a prearranged or demand basis (3) at a metered, mileage-based or per trip fare.

***Limousine*** shall mean any vehicle (1) used for the business of carrying passengers for hire (2) on a prearranged and not on a demand basis (3) at a premium fare.

***Premium Fare*** shall mean a rate based on an hourly rental of not less than one hour. A mileage charge may be assessed for transportation of the vehicle only for the time before and after the transportation service is provided and only in addition to the minimum hourly charge as provided by this definition.

***Taxicab or Limousine*** shall not include the following:

(a) Buses, funeral cars, ambulances or medical transport vehicles;

(b) Vehicles operating on established routes which are regulated by the Public Service Commission of Wisconsin; and

(c) Vehicles rented to be driven by the renters or renter's agent, commonly known as "rent-a-cars".
(Ord 204-02, §1, 10-22-02)

### Sec. 9-721. Licenses – required; exemptions.

(a) No person, firm or company shall conduct a taxicab or limousine business within the City nor shall any person solicit passengers to be transported for hire within the City unless duly licensed to do so by the Common Council.

(b) Subsection (a) of this section shall not apply to taxicabs or limousines that both pick up and drop off passengers within the City if the services are licensed in another municipality.
(Code 1965, §11.09(1), Ord 204-02, §1, 10-22-02)
**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

### Sec. 9-722. Same – application; issuance; renewal.

(a) ***Application.*** Application for a license to convey passengers for hire shall be made in writing to the City upon the appropriate form furnished by the City Clerk. The application shall give the address from which business is conducted and shall be signed by the owner of the vehicle. The application shall state the number of vehicles proposed to be covered by such license.

(b) ***Hearing; approval by Council.*** The application shall be submitted by the City Clerk to the Common Council, which shall set a date for a public hearing before the Safety and Licensing Committee to examine the public convenience and necessity of granting such license. The City Clerk shall notify the applicant and all interested parties of the time and place set for the hearing. Not later than thirty (30) days after the date of the hearing the committee shall submit to the Common Council its recommendation as to whether public convenience and necessity will be served by the granting of the application. No license shall be granted until the Common Council has determined that the public convenience and necessity will be served by the service proposed in the application for license. The Common Council may hold such further hearings and procure such additional information as it may deem necessary or advisable in making such determination.

(c) ***Renewal.*** All licenses issued by the Common Council may be renewed from year to year upon payment of the annual license fee and deposit of a sufficient policy of insurance as required by §9-723; provided that, if charges are filed with the Common Council against any license holder, such license shall not be granted until after a hearing is had and affirmative action is taken as in the case of original application. Whenever charges are filed against any licensee, a temporary license shall be issued by the City Clerk to permit operation pending final action by the Common Council.

(d) ***Fee; approval by Police Chief.*** The license application shall be accompanied by the license fee. The amount of the fee shall be on file in the office of the City Clerk. Before a license is granted by the Common Council, such application shall be approved or disapproved by the Police Chief and the City Sealer or designees thereof.
(Code 1965, §11.09(2)--(5); Ord 21-94, §1, 1-5-94, Ord 83-99, §1, 10-24-99)
***Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.
**State law reference(s)--**Authority to license, W.S.A. §349.24.

### Sec. 9-723. Insurance.

No vehicle for the conveyance of passengers shall be operated or licensed under this division until the applicant for the license deposits with the City Clerk a sufficient policy of insurance issued by an insurance company licensed to do business in the state which shall provide that the insurance company shall be liable for damages in the minimum amount of five hundred thousand dollars

($500,000) representing a combined single limit for bodily injury and property damage liability for any accident due to the negligent operation of such vehicle. Said policy shall also include the City of Appleton as an insured. The policy or contract is to be approved by Human Resources for the City before it is filed and shall contain a provision that the policy may not be canceled before the expiration of its term except upon thirty (30) days' written notice to the City Clerk.
(Code 1965, §11.09(7); Ord 30-93, §1, 3-3-93, Ord 83-99, §1, 10-24-99)

**Sec. 9-724. Off-street parking.**

Before a license to convey passengers for hire will be issued under this division, the applicant must provide adequate off-street parking for the vehicles to be licensed. Such off-street parking shall be stated in the application for a license.
(Code 1965, §11.09(11))

**Sec. 9-725. Posting of fares.**

The fares that are established by any licensee under this division for the transportation of passengers shall be printed in letters not less than one-half (½) inch high and posted in a conspicuous place in all taxicabs. All advertised and business practices of licensees shall be in compliance with Wisconsin Trade Practices Laws, and enforced by the City Sealer or designee thereof.
(Code 1965, §11.09(9), Ord 83-93, §1, 10-24-99)

**Sec. 9-726. Identification of taxicabs.**

Each taxicab licensed under this division shall have painted in a prominent place on its exterior a number by which it may be easily identified. The numbers shall be placed on licensed taxicabs according to the specifications of and under the direction of the City Sealer or designee thereof.
(Code 1965, §11.09(6), Ord 83-99, §1, 10-24-99)

**Sec. 9-727. Inspection of taxicabs and limousines.**

The Police Department may inspect taxicab or limousine at any time for the purpose of discovering defects that might make them unsafe for the transportation of passengers. When defects are found, the taxicab or limousine shall not be operated for the transportation of passengers until the taxicab or limousine has been repaired and until the repairs have been approved by the Police Department.
(Code 1965, §11.09(8); Ord 48-92, §1, 5-6-92, Ord 204-02, §1, 10-22-02)

**Sec. 9-728. Taxicab/limousine driver's license – required; term.**

No person shall drive or operate a taxicab or limousine unless such person is licensed by the State and in accordance with this division. The taxicab/limousine licenses shall be valid for two (2) years from date of issuance.
(Ord 49-89, §1, 3-15-89, Ord 204-02, §1, 10-22-02)

**Sec. 9-729. Same – Application; issuance; revocation.**

(a) ***Application.*** In order for a person to be licensed under this division, the person must be at least eighteen (18) years of age and must make written application to the City Clerk on forms furnished by the City Clerk, giving the applicant's name, address and age, whether or not he has been convicted of a felony, whether or not his driver's license has ever been revoked or suspended, and the type of state driver's license that has been issued to him, and stating his experience and the number of the state driver's license. The application must be accompanied by the license fee, the amount of which is on file in the office of the City Clerk, for the initial license or any renewal license. Licenses are issued for a two- (2-) year license period from date of issuance. After the Police Department has granted approval of the license, the City Clerk shall issue a photo identification card, which must be displayed on the licensee's person whenever he is driving or operating a taxicab or limousine. The cost of the identification card is included in the application fee. The identification card may be replaced for a fee, the amount of which is on file in the office of the City Clerk, if it is lost or stolen.

(b) ***Issuance.*** No license under this division will be issued or renewed if any of the following apply:

(1) The applicant is the holder of a state occupational driver's license.

(2) The applicant has been convicted of operating while intoxicated in the past five (5) years.

(3) The applicant has more than three (3) moving traffic violations in the past year.

(4) The applicant has more than three (3) traffic accidents in the past year, regardless of fault.

(5) The applicant was convicted of an offense that substantially relates to the licensed activity. Such offenses include, but are not limited to, burglary, sex offenses, drug offenses, possession or sale of stolen property. A license can be granted if the conviction is reversed or if the person is granted a pardon for the offense. In determining whether the circumstances of the conviction are substantially related, the Chief of

Police or designee shall consider the number of convictions, the nature and seriousness of the crime(s), whether the crime(s) involved violence, theft, or other evidence of lack of trustworthiness with money, whether the crime(s) involved driving, the age and maturity of the individual at the time of the conviction, the amount of time elapsed since the conviction, and any evidence of personal rehabilitation.

(6) The applicant has been declared a habitual criminal.

(c) The license of any applicant who makes a false statement in his application shall be void and the license shall be surrendered to the City Clerk or any member of the Police Department.

(d) Any driver licensed under this section who shall be found guilty or shall plead guilty to violations of the traffic code of the City three (3) times within any one (1) year shall have his license automatically revoked.
(Code 1965, §11.09(10); Ord 49-89, §1, 3-15-89; Ord 22-94, §1, 1-5-94, Ord 204-02, §1, 10-22-02)
**Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 9-730. Same – appeal of denial.**

If the investigating authority denies an application for a license, the City Clerk shall forthwith notify the applicant by mail of the denial and the reason therefore. The notice shall indicate the date and time of the review of the denial by the Safety and Licensing Committee and the right of the applicant to appear before the committee. The Safety and Licensing Committee shall hear any person for or against granting the license and shall report its recommendation to the Common Council, which shall grant or deny the license.
(Ord 204-02, §1, 10-22-02, Ord 8-15, §1, 2-24-15)

**Secs. 9-731 – 9-745. Reserved.**

## DIVISION 3. WRECKER SERVICES

**Sec. 9-746. Services on police call list.**

No person shall engage in or conduct or carry on the business of providing towing service for the City Police Department rotating call list without complying with the following requirements:

(a) The towing service place of business must be within the city limits.

(b) It shall be the responsibility of the towing services to have valid L.C. permits issued by the State Transportation Commission covering all towing services requested.

(c) Towing services shall provide twenty-four (24) hour emergency service with company owned and operated trucks. Towing services must accept all emergency calls seven (7) days a week. Towing services may not accept responsibility for another service's calls at anytime.

(d) Towing service vehicles must be properly licensed and operated by personnel at least eighteen (18) years of age who are properly licensed to operate tow trucks.

(e) Towing services shall accept responsibility for safekeeping of vehicles and belongings in a properly zoned area in the city limits.

(f) Should a towing service fail to arrive within twenty-five (25) minutes after being dispatched to a certain location, that service shall be considered canceled without any fee due and the next available wrecker on the list may be contacted. If the towing service should fail to respond to a call, a Police Department official shall notify the towing service owner of such no-response call. Two (2) such no-response calls in a twelve- (12-) month period may result in the towing service's name being removed from the rotating call list for a period of one hundred eighty (180) days.

(g) Towing services shall provide storage for vehicles and belongings in a secured area isolated from the general public in either a fenced-in area or building.

(h) Towing services who tow on the rotating list for the City shall not charge in excess of the usual and customary fee rates, submitted by the towing services to the City for that year, while towing for or at the request of the City. Citizen requests for a specific towing firm shall be at the rate determined by such firm. The usual and customary fee rate list shall be submitted to the City prior to December 31 for the following year. The usual and customary fee rate list submitted to the City shall apply to the submitting tow service for the entire calendar year. The listed rates may be changed during the year only with prior approval by the City of Appleton Towing Services Review Committee.

(1) The usual and customary fee rate list requested by the City shall include, but is not limited to, routine tows (day, night, weekend, holiday), after-hours release of vehicles, recovery, storage rates, service calls (jump starts, lock-outs, gas fills), flat-bed trucks, dollies, mileage rates, extra time for wrecker and additional wreckers.

(i) Towing firms may be added to the rotating list upon application throughout the year provided they have met the requirements contained in this division. Approved firms shall be added to the rotating call list within sixty (60) days of the date of their application to the Police Department. The usual and customary fee rate list shall be submitted with the application.

(j) The City of Appleton Towing Services Review Committee shall consist of one (1) representative from the Appleton Police Department, one (1) representative from the City of Appleton City Attorney's Office, one (1) representative from the City of Appleton's Safety and Licensing Committee, and two (2) representatives from the tow services on the rotating call list. If a tow service representative or their company is the subject of Committee business, that representative shall be temporarily removed from the City of Appleton Towing Services Review Committee. The City of Appleton Towing Services Review Committee shall appoint an alternate representative from the tow service list to fill the temporary vacancy. The City of Appleton Towing Services Review Committee shall meet at the call of any of its committee members.

(k) Formal written citizen complaints relating to a service provided as a result of the rotating call list shall be investigated and forwarded to City of Appleton Towing Services Review Committee. If the City of Appleton Towing Services Review Committee determines that the complaint is valid, the City of Appleton Towing Services Review Committee may remove the tow service from the rotating call list for a period not to exceed three hundred sixty-five (365) days. If the owner of the tow service wishes to contest the findings of the City of Appleton Towing Services Review Committee, the owner may file a written objection with the City of Appleton City Clerk's Office within seventy-two (72) hours after receipt of the City of Appleton Towing Services Review Committee's decision. Upon receipt of the written objection, the matter shall be placed on the agenda for the Safety and Licensing Committee. The Safety and Licensing Committee will allow the owner an opportunity to present evidence as to why they should not be removed from the rotating call list.
(Code 1965, §22.04(1) - (10); Ord 31-91, §1(1) - (10), 3-20-91, Ord 96-00, §1, 10-7-00, Ord 101-00, §1, 11-18-00, Ord 39-02, §1, 3-25-02, Ord 11-05, §1, 1-19-05)

**Sec. 9-747. Notification of police required prior to towing of certain vehicles.**

The Police Department shall be notified before towing of any abandoned vehicle or illegally parked vehicle.
(Code 1965, §22.04(11); Ord 31-91, §1(11), 3-20-91)

**Sec. 9-748. Receipt for services.**

The towing service shall provide an itemized receipt of services performed to persons provided the service. The receipt shall state the type of service performed. Receipts generated as a result of being on the rotating tow list shall identify and list all services performed and applicable charges.

A copy of the receipts generated by the rotating call list shall be retained by the towing service for the calendar year of issuance plus the previous calendar year. Towing firms on the rotating call list shall make the call list receipts available to the Police Department for inspection upon request.
(Code 1965, §22.04(12); Ord 31-91, §1(12), 3-20-91)

**Sec. 9-749. Insurance.**

Towing services must show proof of general and automobile liability insurance with a minimum of seven hundred fifty thousand dollars ($750,000) for auto liability. Evidence of insurance coverage is to be in the form of a certificate of insurance issued by the insurer to the City and provided to the City Clerk's Office. Said certificate shall list the City of Appleton as an additional insured and provide a minimum of thirty (30) days notification in case of non-payment or cancellation of policy.
(Code 1965, §22.04(13); Ord 31-91, §1(13), 3-20-91, Ord 40-02, §1, 3-25-02)

**Sec. 9-750. Equipment.**

(a) Towing services shall have a minimum of two (2) tow trucks owned or leased and licensed and operated by the company by January 1, 1988.

(b) Standards for trucks and equipment shall be as follows:

(1) Tow truck with a manufacturer's rated gross vehicle weight rating of ten thousand (10,000) pounds or more, dual wheel chassis.

(2) Towing services on the Police Department's rotating call list may have either two boom trucks or one boom truck and one flat bed truck; the wrecker boom truck shall have a wrecker boom and winch rated at 4 tons or more; the flat bed truck shall meet the requirements contained in §340.01(6n), Wisconsin Statutes;

(3) Equipment including two-way radio communication, dollies, broom, shovel, motorcycle belt, one (1) snatch block per vehicle, steering wheel holder and other necessary equipment. Citizens band radios are excluded.

(c) Tow trucks owned, leased and operated by towing services must be equipped with a wheel lift capacity.
(Code 1965, §22.04(14)--(16); Ord 31-91, §1(14)--(16), 3-20-91; Ord 97-97, §1, 12-5-97)

**Sec. 9-751. Removal from the police call list.**

A towing service may be removed from the police call list for any of the following reasons:

(a) Failure to comply with the requirements listed in this Division;

(b) Violations of any other local rules, policies, or ordinances related to police requested tows;

(c) Violations of state statutes related to towing or police requested tows;

(d) Any other reason the Council deems sufficient to warrant removal.

No period of removal shall exceed three hundred sixty-five (365) days. All removals under this section shall be subject to review as set forth in code Section 9-29(b).
(Ord 102-00, §1, 11-18-00)

**Secs. 9-752 – 9-774. Reserved.**

## ARTICLE XV. RECREATIONAL AND EDUCATIONAL CAMPS AND CAMPGROUNDS

### DIVISION 1. GENERALLY

**Sec. 9-775. Application for license.**

Application for a license required in this article shall be made to the Health Department upon a form furnished by the Department and shall contain such information which the Department may prescribe and require and shall be accompanied by payment of the applicable fee.
(Ord 123-92, §1, 11-4-92)

**Sec. 9-776. Issuance of license generally.**

Licenses required under this article, when approved by the Health Department, shall be issued by the Health Officer. A selective or restrictive permit may be issued by the Health Officer on his determination of conformance with appropriate standards and good public health practices.
(Ord 123-92, §1, 11-4-92)

**Sec. 9-777. Inspection required prior to granting of license; fee.**

A license will not be granted under this article to an operator of a new establishment or to a new operator of an existing establishment without a preinspection. A preinspection fee will be assessed for each establishment according to the schedule on file with the Health Department.
(Ord 123-92, §1, 11-4-92; Ord 108-95, §1, 11-15-95)

**Sec. 9-778. Transfer of license; issuance to agent or employee.**

No license issued under this article may be transferred unless otherwise provided by the ordinances of the City. No license shall be issued to or used by any person acting as agent for or in the employ of another.
(Ord 123-92, §1, 11-4-92)

**Sec. 9-779. Expiration and renewal of license.**

Except where otherwise provided, every Health Department license shall terminate or expire on June 30 of each year and may be renewed annually thereafter. The application for renewal shall be filed with the Health Department on or before June 30, together with payment of the required fee. The fee for said license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Health Department. If the annual renewal fee has not been paid on or before June 30, an additional late payment fee shall be required, the amount if which is on file with the Health Department.

Establishments operating on July 15 without a proper license shall be ordered closed by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18. Each violation and each day a violation continues or occurs shall constitute a separate offense.
(Ord 123-92, §1, 11-4-92; Ord 106-95, §1, 11-15-95; Ord 74-96, §1, 9-4-96)

**Sec. 9-780. Suspension or revocation of license.**

The Health Officer may suspend or revoke any license issued pursuant to this article for violations of ordinances or laws regulating the licensed activity and for other good cause.
(Ord 123-92, §1, 11-4-92)

**Sec. 9-781. Right of entry; testing of samples.**

The Health Officer may enter any establishment required to be licensed in this article at all reasonable times to inspect the premises, secure samples or specimens, examine and copy documents, obtain photographs, or take any other action he deems necessary to properly enforce the provisions of applicable laws regulating such business or activity. Samples of food, drink or water from any licensed premises may be taken from any licensed premises and examined by the Health Officer at such times as he deems necessary, for detection of unwholesomeness, adulteration, microbiological quality, or any other enforcement purposes. Adulteration and microbiological quality standards and definitions set forth in W.S.A. §97.02, or to the State Department of Agriculture, Trade and Consumer Protection, Food Division's Polices and Procedures Manual Sections 14.1 and 14.2 are hereby adopted by reference and incorporation as part of this section.
(Ord 123-92, §1, 11-4-92, Ord 24-03, §1, 1-21-03)

**Sec. 9-782. Correction of violations; citations.**

Whenever the Health Officer finds that any establishment required to obtain a license in this article is not operating or equipped in any manner required by ordinances or laws regulating such establishment, the Health Officer may notify, in writing, the person operating the premises, specifying the requirements of such ordinance or law, and requiring that such business comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Health Officer. The Health Officer may also request the issuance of citations for any such violations pursuant to the provisions of §1-17.
(Ord 123-92, §1, 11-4-92)

**Sec. 9-783. Emergency powers of Health Officer.**

Whenever the Health Officer has reasonable or probable cause to believe that any food, sanitary condition, equipment, premises or method of operation thereof creates a danger to public health, the Health Officer may issue a temporary order prohibiting the sale or movement of food for any purpose, or an order prohibiting the continued operation of the premises or any part thereof which creates the immediate danger to health. The Health Officer may suspend any license without notice whenever the licensed premises constitutes an immediate health hazard.
(Ord 123-92, §1, 11-4-92)

**Sec. 9-784. Appeals.**

Any person aggrieved by the denial of a license or by suspension or revocation of a license required under this article by the Health Officer or by any temporary suspension or any other order may appeal any such order to the Board of Health within thirty (30) days of suspension, revocation or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such other pending determination of the appeal. The Board of Health may affirm, modify, or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings relating to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record
(Ord 123-92, §1, 11-4-92)

**Secs. 9-785 – 9-795. Reserved.**

## DIVISION 2. RECREATIONAL AND EDUCATIONAL CAMPS

**Sec. 9-796. Definitions.**

For the purpose of this division, a recreational and educational camp shall mean a premise, including temporary and permanent structures, which is operated as overnight living quarters where both food and lodging or facilities for food and lodging are provided for children or adults, or both children and adults, for a period which includes four (4) or more consecutive nights of lodging, for a planned program of recreation or education, and which is offered free of charge or for payment of a fee by a person or by the state or a local unit of government.
(Ord 123-92, §1, 11-4-92)

**Sec. 9-797. License required; fees.**

No person shall operate a recreational or educational camp without obtaining a license from the Health Department. The fee for the license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Department of Health.
(Ord 123-92, §1, 11-4-92; Ord 109-95, §1, 11-15-95)

**Sec. 9-798. State sanitation regulations adopted.**

All recreational and educational camps and licenses under this division shall comply with Wisconsin Administrative Code ATCP §78.01 through §78.22, which are hereby adopted by reference and incorporated as part of this division.
(Ord 123-92, §1, 11-4-92, Ord 24-03, §1, 1-21-03; Ord 88-16, §1, 11-8-16)

**Secs. 9-799 – 9-810. Reserved.**

## DIVISION 3. CAMPGROUNDS

**Sec. 9-811. Definitions.**

For the purposes of this definition, a "campground" shall mean any parcel or tract of land owned by a person, the state or local government, which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four (4) or more camping units, or by one (1) to three (3) camping units if the parcel or tract of land is represented as a campground.

***Camping unit*** means any portable device, not more than four hundred (400) square feet in area, used as a temporary dwelling, including but not limited to a camping trailer, motor home, bus, van, pick-up truck or tent.

***Special event campground*** means a single event such as a fair, rally or festival involving the gathering of camping units for a maximum of seven (7) consecutive nights.
(Ord 123-92, §1, 11-4-92)

**Sec. 9-812. Exemptions.**

The following are exempt from obtaining a license under this article:

Where independent camping unit(s) are utilized in conjunction with a business event, such as a carnival.
(Ord 123-92, §1, 11-4-92)

**Sec. 9-813. License required; fees.**

No person shall operate a campground without obtaining a license from the Health Department. The fee for said license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Health Department.
(Ord 123-92, §1, 11-4-92, Ord 110-95, §1, 11-15-95)

**Sec. 9-814. State sanitation regulations adopted.**

All campgrounds under this division shall comply with Wisconsin Administrative Code ATCP §79.01 through ATCP §79.27, which are hereby adopted by reference and incorporated as part of this division.
(Ord 123-92, §1, 11-4-92, Ord 24-03, §1, 1-21-03; Ord 89-16, §1, 11-8-16)

## ARTICLE XVI. FARMERS MARKETS

### Sec. 9-815. Definitions.

Farmers market is defined as a specified location with two (2) or more booths or stalls operated on a non-continuous basis by individuals selling either products of the farm or garden or any combination of products of the farm and garden and commercially processed foods, household products, crafts and handmade items.
(Ord 83-94, §1, 7-20-94; Ord 37-95, §1, 4-19-95)

### Sec. 9-816. License required.

Each farm market shall have an individual designated as agent. Each market shall be licensed annually by the City. The term shall be the calendar year, and all licenses shall expire or terminate on December 31 of each year.
(Ord 83-94, §1, 7-20-94)

### Sec. 9-817. Application for license; license fees.

The agent of each farm market shall complete a license application obtained from the City Clerk. The completed application with license fee shall be submitted to the City Clerk. The fee for a license under this division shall be on file with the City Clerk.
(Ord 83-94, §1, 7-20-94)

### Sec. 9-818. License investigation.

Upon receipt of an application and license fee, the clerk shall forward the application to the appropriate departments for their recommendations. The recommendations shall either approve or deny the license. If all recommendations are for approval, the City Clerk may immediately issue said license. Otherwise, the applications will be referred to the Safety and Licensing Committee.
(Ord 83-94, §1, 7-20-94, Ord 108-04, §1, 8-10-04)

### Sec. 9-819. Rules of operation.

Each farm market, and the operators of any booths or stalls therein, shall comply with the rules and regulations for a farm market on file with the Appleton Health Department. These rules state the manner in which any food or other products may be handled or sold, and the trade practices that shall be adhered to. The licensed farm market and its agent shall be responsible for the compliance of any individual operating within their market.
(Ord 83-94, §1, 7-20-94)

### Sec. 9-820. Violations.

A violation of this article by a seller shall constitute a violation by the agent.
(Ord 83-94, §1, 7-20-94)

### Secs. 9-821 – 9-829. Reserved.

## ARTICLE XVII. ESCORTS AND ESCORT SERVICES

**Sec. 9-830. Definitions.**

(a) For the purposes of this article, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise.

***Escort*** means any person who, for a fee, commission, salary, hire, profit, payment or other monetary considerations accompanies or offers to accompany another person to or about social affairs, entertainment or places of amusement or consorts with another person about any place of public resort or within any private quarters or agrees to privately model lingerie, perform a striptease or perform in a nude or semi-nude state for another person or persons.

***Escort service*** means service provided by any person who, for a fee, commission, salary, hire, profit, payment or other monetary consideration, furnishes or offers to furnish names of persons who may accompany other persons to or about social affairs, entertainment or places of amusement, or who may consort with others about any place of public resort or within any private quarters or agrees to privately model lingerie, perform a striptease or perform in a nude or semi-nude state for another person or persons.

***Person*** means any individual and is also extended and applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate.
(Ord 128-03, §1, 8-12-03)

**Sec. 9-831. Exemptions.**

This section does not apply to businesses, agencies and persons licensed by the State of Wisconsin or the City of Appleton pursuant to a specific statute or ordinance, and employees employed by a business so licensed and which performs an escort or an escort service function as a service merely incidental to the primary function of such profession, employment or business and which do not hold themselves out to the public as an escort or an escort service.

**Sec. 9-832. License required.**

(a) No escort service shall operate or provide service in the City of Appleton without first obtaining an escort service license issued by the City of Appleton.

(b) No person shall escort in the City of Appleton unless employed by an escort service licensed by the City of Appleton and properly registered pursuant to §9-839.

(c) Any person, partnership or corporation which desires to operate or provide services from more than one (1) location must have a license for each location.

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

(e) No person may advertise indicating that an escort service is available in the City of Appleton unless that service possesses a valid license. No escort service may in any manner advertise its services as licensed by the City of Appleton.

(f) No escort service shall provide a person with the actual services of an escort at its establishment address except when the escort service has met the standards and requirements of adult-oriented establishments and is in possession of an adult-oriented establishment permit as required in §23-390, et seq.
(Ord 128-02, §1, 8-12-03, Ord 47-05, §1, 5-10-05)

**Sec. 9-833. Application for license.**

(a) Any person desiring to secure a license under this article shall make application to the City Clerk.

(b) The application for a license shall be on a form approved by the City Clerk. An applicant for a license (which shall include each partner and limited partner of a partnership applicant, each officer and director of a corporate applicant, each stockholder holding ten percent (10%) or more of the stock or beneficial ownership and every other person who is interested directly in the ownership or operation of the business) shall furnish the following information under oath:

(1) Name and address, including all aliases;

(2) Written proof that the individual is at least eighteen (18) years of age;

(3) All residential addresses of the applicant for the past ten (10) years;

(4) The business, occupation or employment of the applicant for ten (10) years immediately preceding the date of application;

(5) Whether the applicant previously operated in this or any other state, county or city under an escort service license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefore and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation;

(6) All convictions and pending charges of felony, misdemeanor or ordinance violations, except minor traffic violations;

(7) Fingerprints and photograph registration with the Appleton Police Department;

(8) The address of the escort service to be operated by the applicant;

(9) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent and all officers and directors of the corporation.

(c) ***Additional information***. Each service shall furnish the following information under oath at the time of application:

(1) The trade name of the escort service. An escort service may operate under only one (1) trade name per license.

(2) The complete address of the proposed business location with a copy of the deed, lease, or other document pursuant to which the applicant occupies or will occupy, such premises.

(3) The service's Federal Employer Identification Number.

(4) A written plan setting forth:

a. Description of the nature of the business to be conducted and services to be offered;

b. Hours that the service will be open to the public;

c. Copies of contracts to be used with escorts and customers.

(d) A receipt from the Finance Department showing payment of the appropriate fee shall be submitted with the application. The amount of the fee shall be on file in the office of the City Clerk.
(Ord 128-03, §1, 8-12-03, Ord 47-05, §1, 5-10-05)

**Sec. 9-834. Standards for license issuance.**

(a) To receive a license to operate an escort service, an applicant must meet the following standards:

(1) If the applicant is an individual:

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

b. Subject to Ch. 111, Wis. Stats., the applicant shall not have been convicted of or pleaded *nolo contendere*, or no contest, to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction;

c. The applicant shall not have been convicted of a felony, misdemeanor or ordinance violation which substantially relates to the licensed activity;

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

(2) If the applicant is a corporation:

a. All officers, directors and others required to be named under §9-833(b) shall be at least eighteen (18) years of age;

b. Subject to Ch. 111, Wis. Stats., no officer, director or other person to be named under §9-833(b) shall have been convicted of or pleaded *nolo contendere*, or no contest, to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction;

c. No officer, director or other person required to be named under §9-833(b) shall have been convicted of a felony, misdemeanor or ordinance violation which substantially relates to the licensed activity.

d. No officer, director or other person required to be named under §9-833(b) shall have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the application.

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

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

b. No persons having a financial interest in the partnership, joint venture or other type of organization shall, subject to Ch. 111, Wis. Stats., have been convicted of or pleaded *nolo contendere*, or no contest, to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction;

c. No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of a felony, misdemeanor or ordinance violation which substantially relates to the licensed activity;

d. No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this ordinance within five (5) years immediately preceding the date of the application.

(4) No license shall be issued unless the Appleton Police Department has investigated the applicant's qualifications to be licensed.

(5) If any charges are currently pending which, if resulting in a conviction, would disqualify the applicant pursuant to subsections (1), (2) or (3) above, the Safety and Licensing Committee may postpone action on the application until such time as the charge is resolved. Should the Safety and Licensing Committee fail to act upon an application within sixty (60) days of the resolution of the charge, the application shall be deemed granted.

(Ord 128-03, §1, 8-12-03)

**Sec. 9-835. Renewal of license.**

(a) Every license issued pursuant to this article will terminate on December 31st following its issuance, unless sooner revoked. Application for renewal shall be on a form provided by the City Clerk.

(b) No renewal application will be considered filed in the office of the City Clerk unless it is accompanied by the receipt of the Finance Department showing payment of the appropriate fee. The amount of the renewal fee shall be on file in the office of the City Clerk.

**Sec. 9-836. Denial of application.**

Whenever an initial application is denied, the duties of the City Clerk and the rights of the applicant shall be as set forth in §9-26 of the Appleton Municipal Code.

**Sec. 9-837. Suspension, revocation or non-renewal of license.**

(a) Any license issued under this article may be suspended for not less than ten (10) days nor more than ninety (90) days, or revoked, pursuant to §9-29, Appleton Municipal Code. The same provisions shall apply to denial of an application for renewal of a license issued under this article.

(b) Any violation of the requirements of this article shall be grounds for revocation of a license issued under this article.

**Sec. 9-838. Responsibilities of the operator.**

(a) The operator of an escort service shall maintain a register of all employees or independent contractors, showing the name and aliases used by the employee, home address, birth date, sex, telephone numbers, social security number and date of employment and termination. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(b) ***Records and reports required***. Every escort and escort service shall:

(1) Provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the services to be performed.

(2) Maintain a legible written record of each transaction of any escort furnished to or arranged for on behalf of any person or customer. The record shall show the date and hour of each transaction, the name, address and telephone number of the person requesting an escort, and the name of every escort furnished.

(3) The record required by subsections (1) and (2) shall be kept available and open for inspection by the Police Department during business hours.

(c) The operator of an escort service shall make the register of employees, along with any other records required to be maintained under this article, available immediately for inspection by police upon demand of a member of the Appleton Police Department at all reasonable times.

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

(e) Any act or omission of any employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(f) No person shall escort or agree to escort a person under the age of eighteen (18) years.
(Ord 128-03, §1, 8-12-03, Ord 47-05, §1, 5-10-05)

**Sec. 9-839. Registration of employees.**

(a) All operators or employees working for any escort service and independent contractors shall, prior to beginning employment or contracted duties, obtain a photo identification card from the City Clerk. Prior to issuance, the person shall provide:

(1) Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer;

(2) Photographs and fingerprinting with the Appleton Police Department.

(b) Upon registration, the Appleton Police Department will provide to each registered employee or independent contractor an identification card, provided by the City Clerk, containing the employee's or independent contractor's photograph identifying the person as such, which shall be kept available for production upon request.

(c) All identification cards shall expire on December 31st following its issuance.

(d) The applicant shall pay a fee, the amount of which is on file in the office of the City Clerk.

(e) Any escort employed by more than one (1) escort service shall submit a separate registration for each service by which the escort is employed.
(Ord 98-97, §1, 12-5-97, Ord 128-03, §1, 8-12-03)

**Sec. 9-840. Penalties.**

Any person found to have violated any provision of this article shall be subject to a forfeiture of not less than two thousand dollars ($2,000) and not more than five thousand dollars ($5,000).

**Sec. 9-841. Severability.**

If any provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the other provisions of same.

**Secs. 9-842 – 9-849. Reserved.**

## ARTICLE XVIII. TATTOO AND BODY PIERCING ESTABLISHMENTS

### Sec. 9-850. Authority and purpose

(a) This chapter is promulgated under the authority of Wis. Stats. §463.16 for the purpose of regulating tattooists, tattoo establishments, body piercers and body piercing establishments in order to protect public health and safety.

(b) ***State sanitation regulations adopted***. All tattoo and body piercing establishments, practitioners, and licenses under this division shall be subject to and comply with the provisions of Wis. Admin. Code, Secs. SPS §221, which are hereby adopted by reference and incorporated as part of this division.
(Ord 90-16, §1, 11-8-16)

### Sec. 9-851. Definitions.

***Agent*** means a local health department serving a population greater than five thousand (5,000) which is designated by the Wisconsin Department of Safety and Professional Services under a written agreement authorized by Wis. Stat. §252.245(1), to issue licenses to and make investigations or inspections of tattooists, tattoo establishments, body piercers and body piercing establishments.
(Ord 91-16, §1, 11-8-16)

***Antiseptic*** means a chemical that kills or inhibits the growth of organisms on skin or living tissue.

***Approved*** means acceptable to the department based on its determination of conformance to this chapter and good public health practices.

***Autoclave*** means an apparatus that is registered and listed with the Federal Food and Drug Administration for sterilizing articles by using superheated steam under pressure.

***Body pierce***, as a verb, means to perforate any human body part or tissue, except an ear, and to place a foreign object in the perforation to prevent the perforation from closing.

***Body piercer*** means a person who performs body piercing on another person at that person's request.

***Body piercing*** means perforating any human body part of tissue, except an ear, and placing a foreign object in the perforation to prevent the perforation from closing.

***Body piercing establishment*** means the permanent premises where a body piercer performs body piercing and is in business for more than seven (7) consecutive days in a license year.

***Branding*** means the burning of skin with a hot tool, cauterizing laser or dry ice so that a mark is imbedded in the deep tissue.

***Cleaning*** means the removal of foreign material from objects, normally accomplished with detergent, water and mechanical action.

***Department*** means the Wisconsin Department of Health and Family Services.

***Disinfectant*** means a chemical that is capable of destroying disease-causing organisms on inanimate objects, with the exception of bacterial spores.

***Health Officer*** means and includes the Health Officer or authorized agent of the Health Officer.

***Hot water*** means water at a temperature of 110°F, or higher.

***Implantation*** means the insertion of an object under the skin, so that it remains under the skin, in whole or in part, after the procedure. This definition shall not apply to the post used in body piercing to keep the perforation from closing.

***Local health department*** means an agency of local government that takes any of the forms specified in Wis. Stats. §250.01(4), specifically the City of Appleton Health Department.

***Operator*** means the owner or person responsible to the owner for the operation of a tattoo or body-piercing establishment.

***Patron*** means a person receiving a tattoo or body piercing.

***Practitioner*** means a tattooist or body piercer.

***Premises*** means a building, structure, area or location where tattooing or body piercing is performed.

***Scarification*** means the cutting of the skin so that when it heals, scar tissue remains.

***Sharps waste*** means waste that consists of medical equipment or clinical laboratory articles that may cause punctures or cuts, such as hypodermic needles, syringes with attached needles and lancets, whether contaminated, unused or disinfected.

***Single use*** means a product or item that is disposed of after one use, such as a razor, a needle, a cotton swab, a tissue or paper product, a paper of soft plastic cup, or gauze

or other sanitary covering.

***Sterilization*** means the killing of all organisms and spores through use of an autoclave operated at a minimum of 250°F (121°C) at a pressure of at least fifteen (15) pounds per square inch for not less than thirty (30) minutes or through use of a an autoclave approved by the department that is operated at different temperature and pressure levels but is equally effective in killing all organisms and spores.

***Tattoo***, as a verb, means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin.

***Tattoo establishment*** means the permanent premises where a tattooist applies a tattoo to another person and is in business for more than seven (7) consecutive days in a license year.

***Tattooist*** means a person who tattoos another person at that person's request.

***Tempered water*** means water ranging in temperature from 85°F to less than 110°F.

***Temporary establishment*** means a single building, structure, area or location where a tattooist or body piercer performs tattooing or body piercing for a maximum of seven (7) days per license year.

**Sec. 9-852. Scope.**

(a) ***Applicability***. This chapter applies to all tattooists, body piercers, tattoo establishments and body piercing establishments.

(b) ***Approved comparable compliance***. When it appears to the Department that strict adherence to a provision of this chapter is impractical for a particular tattooist, tattoo establishment, body piercer or body piercing establishment, the Department may approve a modification in that requirement for that person or establishment if the Department is provided with satisfactory proof that the grant of a variance will not jeopardize the public's health, safety or welfare.

**Sec. 9-853. Right of entry.**

The Health Officer may enter any establishment required to be licensed in this article at all reasonable times to inspect the premises, view the practice (with patron's permission), secure samples or specimens, examine and copy documents, obtain photographs or take any other action deemed necessary to properly enforce the provisions of applicable laws regulating such business or activity.

**Sec. 9-854. Responsibility of the operator.**

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

(b) Any act or omission of any employee constituting a violation of the provisions of this ordinance shall be deemed an act or omission of the operator for purposes of determining whether the license shall be suspended, revoked, or not renewed.

**Sec. 9-855. Correction of violations, citations.**

Whenever the Health Officer finds that any establishment, tattooist or body piercer required to obtain a license in this article is not operating or equipped in any manner required by ordinances or laws regulating such establishment or activity, the Health Officer may notify, in writing, the person operating the premises, or performing the activity, specifying the requirements of such ordinance or law, and requiring that such business or practitioner comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Health Officer. The Health Officer may also issue citations for any such violations pursuant to the provisions of Appleton Municipal Code Sec. 1-17(c).

**Secs. 9-856 — 9-859. Reserved.**

## DIVISION 2. LICENSES

**Sec. 9-860. Generally.**

(a) Any person, partnership, or corporation desiring to secure a tattoo establishment, body-piercing establishment, combination tattoo/body piercing establishment, tattooist and/or body piercer license shall make application to the local health department.

(b) The application shall be on a form provided by the local health department and shall include, at a minimum, the following information:

(1) The name(s) (including aliases), addresses, dates of birth and driver's license number, of the applicant, any partner or limited partner in a partnership application, any shareholder holding more than ten percent (10%) of the stock of a corporate applicant and each corporate officer and director.

(2) Written proof that each person required to be identified under this section is at least eighteen (18) years of age.

(3) The address of the establishment to be licensed.

(4) Whether the applicant or any person required to be identified is currently operating or has previously operated, in this or any other municipality or state, under a tattoo or body piercing establishment license, whether the applicant or person required to be named in this section has ever had such a license or permit suspended or revoked, or has been convicted of a violation of state or local laws governing the practice of tattoo or body piercing, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension, revocation or conviction.

(c) Failure or refusal of the applicant to completely and truthfully provide responses to the application questions, to give any information relevant to the investigation of the application, or refusal to appear at any reasonable time and place for examination regarding said application shall constitute an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof.

(d) Application for a license required in this article shall be made to the local health department upon a form furnished by the local health department and shall contain such information that the local health department may prescribe and require and shall be accompanied by payment of the application fee.

(e) Within thirty (30) days after receiving a completed application for a license, the local health department or its agent shall either approve the application and issue a license or deny the application. If an application for a license is denied, the local health department shall give the applicant reasons, in writing, for the denial and provide information about how the applicant may appeal that decision.

(f) A license will not be granted under this article to an operator of a new establishment or to a new operator of an existing establishment without a preinspection. A preinspection fee will be assessed for each establishment according to the schedule on file with the local health department.

(g) The operator of a tattoo or body-piercing establishment shall promptly notify the local health department of his or her intention to cease operations and shall supply the local health department with the name and mailing address of any new operator. A license is not transferable. A new operator will submit an application for a new license. No license shall be issued to or used by any person acting as agent for or in the employ of another.

**Sec. 9-861. Application for establishment license**.

(a) ***Requirements***.

(1) No person may operate a tattoo establishment or body piercing establishment or a combined tattoo and body piercing establishment unless he or she has obtained a license for the establishment from the local health department by application made upon a form furnished by the local health department. All applications submitted to the local health department shall be accompanied by a fee under (c).

(2) No person shall engage in the practice of tattooing and/or body piercing except in a permanent licensed tattoo and/or body-piercing establishment.

(3) Reciprocity within the State of Wisconsin will be recognized upon receipt of proof that the local requirements as set forth in this chapter are met by the applicant.

(b) ***Prohibitions***.

(1) No person shall intentionally engage in the practice of implanting, branding or scarification in the City of Appleton, except as set forth herein.

(2) The prohibitions set forth in (b) shall not apply to licensed physicians, or procedures or orders delegated by a licensed physician.

(c) ***Expiration and renewal of license***.

(1) Except where otherwise provided, every Health Department license shall terminate or expire on June 30th of each year and may be renewed annually thereafter.

(2) The application for renewal shall be filed with the Health Department on or before June 30th, together with payment of the required fee. The fee for said license shall be on file with the local health department.

(3) In addition, the applicant must pay any state administrative fees, the amount of which is on file with the local health department. If the annual renewal fee has not been paid on or before June 30th, an additional late payment fee shall be required; the amount of which is also on file with the local health department. Establishments operating on July 15th without a proper license shall be ordered closed by the Health Officer. Practitioners operating on July 15th without a proper license shall be ordered to cease operations by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18, Appleton Municipal Code. Each violation and each day a violation continues or occurs shall constitute a separate offense.

**Sec. 9-862. Application for practitioner license.**

(a) ***Requirements***.

(1) No person may tattoo or body pierce another person, use or assume the title of tattooist or body piercer or designate or represent himself or herself as a body piercer unless the person has obtained a license from the Department of Safety and Professional Services and also completing an application made upon a form furnished by the local health department. An application submitted to the local health department shall conform with the requirements set forth in Sec. 9-880.

(2) No person shall engage in the practice of tattooing and/or body piercing except in a permanent licensed tattoo and/or body-piercing establishment.

(b) Reciprocity within the State of Wisconsin will be recognized upon receipt of proof that the local requirements as set forth in this article are met by the applicant.
(Ord 92-16, §1, 11-8-16)

**Sec. 9-863. Suspension or revocation of license.**

The Health Officer may suspend or revoke any license issued pursuant to this article for violations of ordinances or laws regulating activity and for other good cause.

**Sec. 9-864. Emergency powers of health officer.**

Whenever the Health Officer has reasonable or probable cause to believe that the premises or method of operation thereof creates a danger to public health, the Health Officer may issue a temporary order prohibiting continued operation of the premises or any part thereof which creates the immediate danger to health. The Health Officer may suspend any license without notice whenever the licensed premises, tattooist, and/or body piercer constitute an immediate health hazard.

**Sec. 9-865. Appeals.**

Any person aggrieved by the denial of a license or by suspension or revocation of a license required under this article by the Health Officer or by any temporary suspension or any other order may appeal any such order to the Board of Health within thirty (30) days of denial, suspension or revocation of a license or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order pending determination of appeal. The Board may affirm, modify or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings related to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record

**Secs. 9-866 – 9-869. Reserved.**

## DIVISION 3. LIMITATIONS

**Sec. 9-870. Temporary establishments.**

The practice of tattooing and body piercing is limited to permanent tattooing and/or body piercing establishments.

**Sec. 9-871. Patrons consent.**

A tattooist or body piercer may not tattoo or body pierce a patron without first obtaining the signed, informed consent of the person on a form approved by the Department.

**Sec. 9-872. Minors.**

(a) No person under sixteen (16) years of age may be body pierced.

(b) No person age sixteen (16) or seventeen (17) may be body pierced unless an informed consent form has been signed by his or her parent or legal guardian in the presence of the operator.

(c) No person under eighteen (18) years of age may be tattooed except by a physician in the course of the physician's professional practice, as permitted under Sec. 948.70(3), Wis. Stats.

(d) A body piercing establishment shall post a notice in a conspicuous place in the establishment stating that it is illegal to body pierce a person under the age of eighteen (18) without the signed, informed consent of that person's parent or legal guardian.

(e) A tattoo establishment shall post a sign in a conspicuous place in the establishment stating that no person under the age of eighteen (18) may be tattooed.

**Sec. 9-873. Barriers to procedure.**

A tattooist or body piercer may not tattoo or body pierce any of the following:

(1) A person who appears to be under the influence of alcohol or a mind-altering drug.

(2) A person who has evident skin lesions or skin infections in the area of the procedure.

**Sec. 9-874. Records.**

(a) Every tattooist and body piercer shall keep a record of each patron.

(b) A patron's record shall include the patron's name, address, age and consent form, the name of the practitioner doing the procedure and any adverse effects arising from the procedure.

(c) A patron's record shall be retained for a minimum of two (2) years following the completion of the procedure.

**Secs. 9-875 — 9-879. Reserved.**

## DIVISION 4. HEALTH AND SANITARY REQUIREMENTS

**Sec. 9-880. Requirements.**

Prior to approval, all practitioners shall provide proof that they are negative for Hepatitis B and C, as demonstrated by documentation of negative results for HbsAG and anti-HCV tests, as confirmed by a practicing physician. The expenses of the testing and examination shall be paid by the practitioner.
(Ord 63-09, §1, 5-26-09; Ord 93-16, §1, 11-8-16)

**Sec. 9-881. Restrictions.**

No tattooist or body piercer with an exposed rash, skin lesion or boil may engage in the practice of tattooing or body piercing.

**Sec. 9-882. Hygienic procedure requirements.**

(a) Tattooists and body piercers shall maintain a high degree of personal cleanliness and shall conform to good hygiene practices during procedures.

(b) Tattooists and body piercers shall thoroughly wash their hands and the exposed portions of their arms with dispensed soap and tempered water before and after each tattoo or body piercing procedure and more often as necessary to keep them clean.

(c) Tattooists and body piercers shall dry their hands and arms with individual single-service towels.

(d) If interrupted during a procedure, a tattooist or body piercer shall rewash his or her hands and put on new gloves if the interruption required the use of hands.

(e) Tattooists shall use single-use plastic covers to cover spray bottles or other reusable accessories to minimize the possibility of transmitting body fluids or disease during application of tattoos to successive patrons.

(f) Disposable-type razors shall be single-use only and disposed of in accordance with NR 526. Electric razors are prohibited.

(g) Body piercing and tattoo needles shall be disposable, sterile and for single patron use only. Body piercing jewelry shall be cleaned, individually packaged and sterilized prior to use.

**Sec. 9-883. Clothing.**

(a) All tattooists and body piercers shall wear clean, washable outer clothing.

(b) When preparing the skin and during a procedure, a tattooist or body piercer shall wear non-absorbent gloves which shall be disposed of after completing the procedure.
(Ord 64-09, §1, 5-26-09)

**Sec. 9-884. Physical examinations of practitioners.**

(a) The Health Officer shall have the power to require any practitioner to submit to a practicing physician for a physical examination whenever the practitioner is suspected of having any infectious or contagious disease that may be transmitted by the practice of tattooing or body piercing. The expenses of the physical examination shall be paid by the practitioner.

(b) Any practitioner notified to appear for a physical examination as may be required by the preceding subsection shall immediately cease working as a practitioner of tattoo or body piercing and shall not be allowed to work thereafter as a practitioner of tattoo or body piercing until he or she shall have first received a certificate in writing from a practicing physician that he or she is not inflicted with any infectious or contagious condition or disease that may be transmitted by the practice of tattoo or body piercing.

**Sec. 9-885. Equipment.**

(a) All surfaces, counters and general use equipment in the tattoo or body piercing area shall be cleaned and disinfected before a patron is seated.

(b) All inks and pigments shall be obtained from sources generally recognized as safe. Information indicating the sources of all inks and pigments shall be available to the local health department or agent upon request. Sterile single-use or sterile individual containers of pigment or ink shall be used for each patron. No pigment or ink in which needles were dipped may be used on another person. Pigment and ink cups shall be for single-patron use. All bulk materials used for the procedure shall be dispensed with single-use utensils. The remainder of dispensed portions shall be disposed of after application.

(c) Needles, bars and tubes shall be construed in a manner that permits easy cleaning and sterilizing.

(d) No tattooist shall use and no tattoo establishment shall permit the use of solder which contains lead to be used to fasten needles.

(e) Acetate tattoo stencils shall be single-use.

(f) No body piercer may use a piercing gun or similar device for body piercing a patron unless such piercing gun is disposable, sterile, and for single patron use only or is sterilized between each use as set forth in Wis. Admin. Code Sec. SPS 221.03(20).

(Ord 94-16, §1, 11-8-16)

**Secs. 9-886 – 9-889. Reserved.**

## DIVISION 5. PHYSICAL FACILITIES AND ENVIRONMENT

**Sec. 9-890. Condition of premises.**

(a) The premises and all facilities used in connection with the premises shall be maintained in a clean, sanitary and vermin-free condition.

(1) Floors in the area where tattoo or body piercing procedures are performed shall be constructed of smooth, durable and non-porous material and shall be maintained in a clean condition and in good repair. Carpeting is prohibited.

(2) Walls and ceilings in the area where tattoo and body piercing procedures are performed shall be light colored, smooth and easily cleanable.

**Sec. 9-891. Physical facilities.**

(a) ***Lighting***. Tattoo and body piercing application areas shall maintain a minimum illumination of fifty (50) foot candles.

(b) ***Living areas***. Tattoo and body piercing areas shall be completely separated from any living quarters by floor-to-ceiling partitioning and solid doors which are kept closed during business hours. A direct outside entrance to the tattoo or body-piercing establishment shall be provided.

(c) ***Toilet rooms***.

(1) All tattoo and body piercing establishments shall have a public toilet and hand washing facility which is separated from any living area.

(2) Toilet room fixtures shall be kept clean and in good repair. Any easily cleanable covered waste receptacle shall be provided in the toilet room.

(d) ***Hand washing facilities***.

(1) At least one hand washing facility shall be conveniently located in the tattoo or body piercing area, in addition to what is provided in the toilet room.

(2) Anti-bacterial soap in a dispenser and single-service towels for drying hands shall be provided at all hand washing facilities.

(3) Hot and cold potable water under pressure shall be available at all hand washing facilities except that tempered water rather than hot water may be provided.

(e) ***Refuse***.

(1) Easily cleanable waste containers with non-absorbent, durable plastic liners shall be used for disposal of all tissues, towels, gauze pads and other similar items used on a patron.

(2) Infectious waste, including sharps waste, shall be stored and disposed of in an approved manner consistent with Wis. Admin. Code Subch. II of NR 526.

**Sec. 9-892. Equipment storage.**

Instruments, dyes, pigments, stencils and other tattoo and body piercing equipment shall be stored in closed cabinets exclusively used for that purpose.

**Sec. 9-893. Privacy.**

A panel or other barrier of sufficient height and width to effectively separate a patron on whom a procedure is being performed from any unwanted observers or waiting patrons shall be in place or readily available at the patron's request. If the facility size does not allow space for this, the establishment shall be locked during the procedure to prevent unwanted observers or patrons entrance to the premises.

**Sec. 9-894. Restrictions.**

(a) ***Smoking and eating prohibited in area of procedure***. No smoking or consumption of food or drink is permitted in the area where a tattoo or body piercing procedure is performed, except that patrons may consume a non-alcoholic beverage during the procedure.

(b) ***Animals prohibited in establishment***. No animals, except for those that provide services to persons with disabilities, are permitted in a tattoo or body-piercing establishment.

**Secs. 9-895 – 9-899. Reserved.**

## DIVISION 6. CLEANING AND STERILIZATION

**Sec. 9-900. Cleaning.**

(a) After each use, tattooing and body piercing equipment shall be cleaned to remove blood and tissue residue before sterilization.

(b) Tubes and body piercing equipment shall be placed in a covered stainless steel container of cleaning and disinfectant solution until they can be cleaned and sterilized.

(c) All containers holding contaminated needles, tubes, reusable body piercing equipment and container lids shall be cleaned and disinfected at least daily.

(d) The tattoo machine shall be cleaned and disinfected before each use.

(e) Gloved personnel shall clean needle tubes prior to sterilization by doing all the following:

(1) Manually pre-cleaning the items with care taken to ensure removal of residue; thoroughly rinsing the items with warm water and then draining the water; cleaning the items by soaking them in a protein dissolving detergent-enzyme cleaner used according to manufacturer's instructions; and cleaning the items further in an ultrasonic cleaning unit which operates at forty (40) to sixty (60) hertz and is used according to the manufacturer's instructions.

(2) Rinsing and drying the items.

(f) Prior to autoclaving, all needles and tubes shall be packaged either individually or in quantities appropriate for individual procedures. Packages shall be identifiable and dated.

**Sec. 9-901. Sterilization.**

(a) Prior to issuance of a tattoo or body piercing establishment license, each operator shall submit written procedures to the local health department setting forth each step to be taken by a tattooist, body piercer, or other employee in sterilizing equipment that is not single use.

(b) Prior to issuance of a tattoo or body piercing establishment license, the operator shall demonstrate the sterilization of equipment following the approved sterilization procedure set forth in subsection (a). A spore test shall be conducted by the applicant and the license shall only be issued upon a negative spore result.

(c) Equipment requiring sterilization shall be pressure-sterilized at the establishment in an autoclave and in

accordance with manufacturer's instruction.

(d) Each batch of sterilized equipment shall be monitored for sterilization by use of heat sensitive indicators capable of indicating approximate time and temperature achieved.

(e) Autoclaves shall be spore tested at least monthly. Spore kill test effectiveness shall be conducted by an independent laboratory.

(f) Sterilized equipment shall be wrapped or covered and stored in a manner which will ensure that it will remain sterile until used.

(g) Each tattoo or body-piercing establishment shall maintain sterilization records, including spore tests for at least one (1) year from the date of the last entry, which shall include the following information:

(1) Date of sterilization

(2) Name of person operating the equipment

(3) Result of heat-sensitive indicator

(h) Sterilized equipment shall be re-sterilized if the package is opened, damaged or becomes wet.

(i) All methods of sterilization other than autoclaving are prohibited.

**Secs. 9-902 – 9-905. Reserved.**

## DIVISION 7. PREPARATION AND CARE OF SITE

**Sec. 9-906. Generally.**

Prior to issuance of a tattoo or body piercing establishment license, each operator shall submit written procedures to the local health department setting forth each step to be taken by a tattooist or body piercer in cleaning, preparing, and applying antiseptic to the skin of the patron.

**Sec. 9-907. Preparation by practitioner.**

Before beginning a procedure, the tattooist or body piercer shall clean the skin area for the tattooing or piercing and then prepare it with an antiseptic. The solution shall be applied with cotton, gauze or single-use toweling.

**Sec. 9-908. Care instructions for patron.**

After completing a procedure, the tattooist or body piercer shall provide the patron with oral and written instructions on the care of the tattoo or pierce. Prior to issuance of the tattoo or body piercing establishment license, a copy of the written care instructions shall be submitted to the local health department for approval.

**Secs. 9-909 – 9-920. Reserved.**

*(The next page is 695)*

# Chapter 10

## Miscellaneous Offenses

Penalty for violation of chapter; responsibility for costs of damage to public property ..... 10-1
Discharge of dangerous weapons ..... 10-2
Adoption of state law regarding carrying of weapons ..... 10-3
Sale of dangerous weapons to minors ..... 10-4
Sale and discharge of fireworks ..... 10-5
Adoption of state law ..... 10-5(a)
Permits ..... 10-5(b)
Operation of boats ..... 10-6
Adoption of state law ..... 10-6(a)
Speed of watercraft ..... 10-6(b)
Reckless operation ..... 10-6(c)
Mufflers ..... 10-6(d)
Lights ..... 10-6(e)
Life preservers ..... 10-6(f)
Overloading vessels ..... 10-6(g)
Permits ..... 10-6(h)
Operation of aircraft ..... 10-7
Residential picketing; unlawful assembly ..... 10-8
Declaration ..... 10-8(a)
Picketing residence unlawful ..... 10-8(b)
Unlawful assembly ..... 10-8(c)
Adoption of state law regarding crimes against public peace, order and other interest ..... 10-9
Adoption of state law regarding resisting or obstructing officer ..... 10-10
Reserved ..... 10-11
Adoption of state law regarding impersonation of peace officer ..... 10-12
Adoption of state law regarding battery ..... 10-13
Possession or consumption of alcoholic beverages on highway, public property lot or school grounds ..... 10-14
Public grounds to be vacated during certain hours ..... 10-15
Smoking in City-owned buildings ..... 10-16
Definitions ..... 10-16(a)
Smoking prohibited ..... 10-16(b)
Exceptions ..... 10-16(c)
Posting of no-smoking signs ..... 10-16(d)
Adoption of state law regarding receiving stolen property ..... 10-17
Adoption of state law regarding gambling ..... 10-18
Adoption of state law regarding indecent conduct ..... 10-19
Adoption of state law regarding prostitution ..... 10-20
Offering or engaging in sexual contact for compensation ..... 10-21
Adoption of state law regarding obscene materials ..... 10-22
Adoption of state law regarding damage to property ..... 10-23
Dumping, leveling of used building and fill material ..... 10-24
Operation of snowmobiles, motor-driven cycles, and motor-driven scooters ..... 10-25
Adoption of state law regarding trespass to land ..... 10-26
Adoption of state law regarding trespass to dwellings ..... 10-27
Adoption of state law regarding theft ..... 10-28
Defraud of merchant in return of merchandise ..... 10-29
Adoption of state law regarding theft of services ..... 10-30
Adoption of state law regarding theft of library material ..... 10-31
Adoption of state law regarding possession of marijuana ..... 10-32
Possession, sale of isobutyl nitrate ..... 10-33
Adoption of state law regarding drug paraphernalia ..... 10-34
Harboring minors ..... 10-35

Loitering by minors ..... 10-36
Definitions ..... 10-36(a)
Loitering of minors (curfew hours) ..... 10-36(b)
Responsibility of parents ..... 10-36(c)
Penalty, minor ..... 10-36(d)
Possession or purchase of cigarettes and tobacco products by persons under the age of eighteen ..... 10-37
Defacement or damage of property by graffiti ..... 10-38
Chemical propellants ..... 10-39
Loitering ..... 10-40
Definitions ..... 10-40(a)
Loitering in the roadway ..... 10-40(b)
Penalty ..... 10-40(c)
Facsimile firearms ..... 10-41
Truancy and habitual truancy ..... 10-42
Definitions ..... 10-42(a)
Prohibited acts ..... 10-42(b)
Truancy penalties ..... 10-42(c)
Habitual truancy penalties ..... 10-42(d)
Adoption of state law regarding contributing to truancy ..... 10-43
Adoption of state law regarding laser pointers ..... 10-44
Urinating or defecating in public ..... 10-45
Smoking on city property ..... 10-46
Animals at special events prohibited ..... 10-47
Firearms restricted in certain City buildings ..... 10-48
Adoption of state law regarding possession of a firearm in a school zone ..... 10-49

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***Cross reference(s)--**Fireworks in public parks and recreation areas, §13-83.

**Sec. 10-1. Penalty for violation of chapter; responsibility for costs of damage to public property; party to a violation and attempt.**

(a) ***Penalties***. Any person who shall violate any provision of this chapter shall upon conviction thereof be punished as provided in §1-16. If a conviction is based upon subsection (c) or (d), the person is subject to the same penalties provided in §1-16.

(b) ***Damages***. In addition to any penalty imposed, in §1-16, any person who shall cause physical damage to or destroy any public property shall be liable for costs of replacing or repairing such damages or destroyed property. The parents of any unemancipated minor child who causes such damage may be held liable for the cost of replacing or repairing such damages or destroyed property in accordance with W.S.A. §895.035.

(c) ***Parties to a violation***. Whoever is concerned in the commission of a violation of this chapter is a principal and may be charged with and convicted of the commission of the violation although he or she id not directly commit it and although the person who directly committed it has not been convicted or has been convicted of some other offense based on the same act. A person is concerned in the commission of the violation if the person directly commits the violation, intentionally aids or abets the commission of or is a party to a conspiracy with another to commit it, or advises, hires, counsels or otherwise procures another to commit it.

(d) ***Attempt***. Whoever attempts to commit a violation of this chapter may be charged with and convicted of the violation. An attempt to commit a violation of this chapter requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute such violation and that the actor does act toward the commission of the violation which demonstrates unequivocally, under all the circumstances, that the actor formed that intent and would commit the violation except for the intervention of another person or some extraneous factor.
(Code 1965, §8.15, Ord 29-03, §1, 2-25-03; Ord 105-06, §1, 9-12-06)

**Sec. 10-2. Discharge of dangerous weapons.**

(a) It is unlawful for any person, except a sheriff, constable, police officer or their deputies, to fire or discharge any firearm, rifle, spring or air gun of any description or tipped arrow within the City.

(b) ***Exceptions.*** Subsection (a) shall not apply to any of the following:

(1) The maintenance and use of duly supervised rifle or pistol ranges or shooting galleries or archery ranges approved by the Chief of Police.

(2) Hunting with a bow and arrow or crossbow.

a. Hunting is not permitted within the city of Appleton except with a bow and arrow or crossbow. Hunting does not include target practice.

b. It shall be unlawful for a person to hunt with a bow and arrow or crossbow within a distance of one hundred (100) yards from any permanent structure used for human occupancy on another person's land. This restriction shall not apply if the person who owns the land on which the building is located allows the hunter to hunt with a bow and arrow or crossbow within the specified distance of the building.

c. When hunting with a bow and arrow or crossbow, a person shall shoot or discharge the arrow or bolt from the respective weapon toward the ground.

d. When hunting with a bow and arrow or crossbow, no person shall shoot or discharge the arrow or bolt from the respective weapon in a manner that may endanger the life, limb or property of another or will traverse any part of any street, alley, trail, public grounds or parks.

e. It shall be unlawful for a person to hunt on any portion of land owned or leased by the City of Appleton.

f. When hunting with a bow and arrow or crossbow, a person shall follow all Wisconsin State Statute and DNR regulations pertaining to bow hunting.

(c) ***Penalties***. Any person that violates any of the provisions of this section may be subject to a forfeiture of no more than five hundred dollars ($500) for the first offense and no more than one thousand dollars ($1,000) for the second and subsequent offenses. Each day that a violation occurs shall be considered a separate offense.
(Code 1965, §8.01(1); Ord 118-06, §1, 10-10-06; Ord 6-14, §1, 3-11-14)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.
**State law reference(s)** – Weapons, W.S.A. §941.20.

**Sec. 10-3. Adoption of state law regarding carrying of weapons.**

W.S.A. §939.22(10) and §941.23 regarding weapons, exclusive of the penalty, is hereby adopted and made an offense punishable as a violation of this Code.
(Code 1965, §8.01(2))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-4. Sale of dangerous weapons to minors.**

No person shall buy for, sell or give away to any minor any dangerous weapon, without first having obtained the written consent of the parent or guardian of such minor. For purposes of this section, the term "dangerous weapon" shall mean and include the following instruments: blackjack, billy, sandclub, pistol, revolver, any instrument which impels a missile by compressed air, spring or other means, any weapon in which loaded or blank cartridges are used, cross knuckles of any metal, nunchaku or nunchuck sticks, throwing stars or shurikens.
(Code 1965, §8.01(4); Ord 38-16, §1, 3-22-16)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-5. Sale and discharge of fireworks.**

(a) ***Adoption of state law***. W.S.A. §167.10 regulating the sale and use of fireworks, exclusive of any penalty imposed thereby, is adopted by reference and made a part of this chapter as though set forth in full.

(b) ***Permits***. Fireworks other than those prohibited by the laws of the state may be used and displayed in open fields, parks, rivers, lakes and ponds by public authorities, fair associations, amusement parks, park boards, civic organizations and other groups of individuals when a permit for such display has been granted by the Mayor. All applications shall be referred to the Fire Chief for investigation and no permit shall be granted unless the Mayor, from the report of the Fire Chief, determines that the applicant will use the fireworks in a public exhibition, that all reasonable precautions will be exercised with regard to the protection of the lives and property of all persons, and that the display will be handled by a competent operator and conducted in a suitable, safe place and manner.
(Code 1965, §8.01(5))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-6. Operation of boats.**

(a) ***Adoption of state law***. Except as otherwise provided in this section, the provisions of W.S.A. §30.50 to §30.80 shall apply to the operation of boats on the navigable waters of the City and such statutes are adopted by reference and made a part of this section. A violation of such statutes shall be a violation of this Code. The navigable waters of the City are hereby determined to be those waters of the Fox River lying within the City limits.

(b) ***Speed of watercraft***. No person driving, operating or using any power-propelled vessel, craft or float shall operate said vessel, craft or float at a speed in excess of slow no wake speed, on that portion of the Fox River from the Appleton Yacht Club south to the Appleton City limits.

(c) ***Reckless operation***. No person shall drive, operate or use any vessel, craft or float on the navigable waters of the City in a careless, negligent or reckless manner so as to endanger the life, property or persons of others.

(d) ***Mufflers.***

(1) No person shall drive, operate or use any vessel, craft or float propelled by an internal combustion engine using gas, gasoline, naphtha or other like fuel unless it is equipped with an underwater exhaust or other muffling device so constructed and used so as to adequately muffle the noise of the explosion. Such internal combustion engine or motor shall be installed on such vessel in such a manner that any underwater exhaust shall exhaust under water at all times; provided, however, that the regulations of this subsection shall not apply when the Mayor issues a permit for a regatta, motorboat race, or exhibition speed boat trial.

(2) No person shall drive, operate or use any vessel, craft or float propelled by an internal combustion engine equipped with a muffling device which has been altered in any manner from the manufacturer's specifications so as to increase its emission of noise.

(3) Every boat propelled by gasoline or other motor power operated on the Fox River in the City shall be equipped with a muffler at all times in good working order sufficient to prevent excessive or unusual noise. It shall be unlawful to operate any such boat so propelled by gasoline or other motive power with the muffler off or cutout open on the Fox River in the City.

(e) ***Lights.*** No person shall drive, operate or use any vessel or craft from sunset to sunrise unless such vehicle or craft carries the lights prescribed by W.S.A. §30.61.

(f) ***Life preservers***. No person shall drive, operate or use any vessel, craft or float unless it carries at least one (1) United States Coast Guard approved life preserver or life

belt or ring buoy or cushion or other similar United States Coast Guard approved device for each person on board, so placed as to be readily accessible.

(g) ***Overloading vessels***. No person shall drive, operate or use any vessel, craft or float which is loaded with passengers or cargo beyond its safe carrying capacity.

(h) ***Permits***. Permits for motorboat regattas, motorboat races, exhibition speedboat trials and water ski or aquaplane exhibitions shall be issued by the City through the Mayor upon application made in writing; provided that in the Mayor's opinion such particular use of the river can be carried out in an orderly fashion, safely and equally convenient, as near as may be, to all vessels and watercraft whatsoever. If the Mayor denies a request for a permit then such request shall, upon written demand of the applicant to the Mayor, be referred to the Common Council for final determination.
(Code 1965, §8.01(9); Ord 74-94, §1, 7-20-94)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-7. Operation of aircraft.**

No person operating an aircraft over the City shall:

(1) Engage in trick or acrobatic flying.

(2) Except for the purpose of taking off or landing, operate at a height of less than three thousand (3,000) feet.

(3) Intentionally drop any object from the aircraft.

(Code 1965, §8.01(10))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-8. Residential picketing; unlawful assembly.**

(a) ***Declaration***. It is declared that the protection and preservation of the home is the keystone of democratic government; that the public health and welfare and the good order of the community require that members of the community enjoy in their homes and dwellings a feeling of well-being, tranquility and privacy, and when absent from their homes and dwellings, carry with them the sense of security inherent in the assurance that they may return to the enjoyment of their homes and dwellings; that the practice of picketing before or about residences and dwellings causes emotional disturbance and distress to the occupants, obstructs and interferes with the free use of public sidewalks and public ways of travel; that such practice has as its object the harassing of such occupants; that without resort to such practice full opportunity exists and under the terms and provisions of this section, will continue to exist for the exercise of freedom of speech and other Constitutional rights; and that the provisions enacted in this section are necessary for the public interest to avoid the detrimental results set forth in this section and are enacted by the Common Council pursuant to the provisions of W.S.A. §62.11(5).

(b) ***Picketing residence unlawful***. It is unlawful for any person to engage in picketing before or about the residence or dwelling of any individual.

(c) ***Unlawful assembly***. W.S.A. §947.06 is adopted and made a part of this chapter by reference as though fully set forth in this section.
(Code 1965, §8.13)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-9. Adoption of state law regarding crimes against public peace, order and other interest.**

W.S.A. §947.01 et seq., regarding crimes against public peace, order and other interests, exclusive of the penalty, are hereby adopted and made an offense punishable as a violation of this Code.
(Code 1965, §8.02(1), Ord 29-03, §1, 2-25-03)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-10. Adoption of state law regarding resisting or obstructing officer.**

W.S.A. §946.41 regarding resisting or obstructing officer, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.02(4)(a)--(c), Ord 29-03, §1, 2-25-03)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-11. Misuse of 911.**

(a) No person shall use the 911 Emergency Telephone System for regular business or non-emergency calls.

(b) No person shall dial 911 Emergency Telephone number to report an emergency, knowing that the fact or situation reported does not exist.
(Ord 26-05, §1, 4-12-05; Ord 92-07, §1, 5-22-07)
**Editor's Note:** This section, Sec. 10-11, Police dogs, was repealed due to the adoption of the new Animal Ordinance.
**Editor's Note:** This new section, Misuse of 911, was created and adopted by the Common Council in May 2007.

**Sec. 10-12. Adoption of state law regarding impersonation of peace officer.**

W.S.A. §946.70 regarding impersonating a peace officer, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.02(5))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-13. Adoption of state law regarding battery.**

W.S.A. §940.19(1) regarding battery, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, § 8.02(6))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-14. Possession or consumption of alcoholic beverages on highway, public property lot, or school grounds.**

No person shall drink from, open a container of, or have in his possession an open container of fermented malt beverage or intoxicating liquor on a public highway including the sidewalks adjacent thereto, in or on a publicly owned or privately owned parking lot to which the public is invited, or on any school grounds within the City, except when any of the following apply:

(a) The area has been temporarily licensed for consumption of intoxicating liquor or fermented malt beverages.

(b) A person licensed to serve fermented malt beverages or intoxicating liquor who, while working as an employee of a licensed established, is carrying an open container of a fermented malt beverage or intoxicating liquor between a licensed establishment and a sidewalk café for the sole purpose of serving patrons within the sidewalk café.
(Code 1965, §8.02(10); Ord 112-91, §1, 11-6-91; Ord 75-05, §1, 6-21-05)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; alcoholic beverages, §9-51 et seq.; streets, sidewalks and other public places, ch. 16.

**Sec. 10-15. Public grounds to be vacated during certain hours.**

No person shall be in or lounge about any park, parkway, school ground or other public recreation ground or place between 11:00 p.m. and 6:00 a.m., and such areas shall be closed to the public during those hours.
(Code 1965, §8.03(2))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-16. Reserved.**

**Editor's Note:** This section, Sec. 10-16, smoking in City-owned buildings, was repealed by the Smoke Free Indoor Air Ordinance, Ord 35-05, §1, effective 7-1-05.

**Sec. 10-17. Adoption of state law regarding receiving stolen property.**

W.S.A. §943.34 regarding receiving stolen property, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this code.
(Ord 98-10, §1, 7-13-10)

**Sec. 10-18. Adoption of state law regarding gambling.**

W.S.A. §945.04 on offenses regarding gambling, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.03(1))
**Cross reference(s) –** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-19. Adoption of state law regarding indecent conduct.**

W.S.A. §944.20 regarding indecent conduct, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.03(3), Ord 29-03, §1, 2-25-03)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-20. Adoption of state law regarding prostitution.**

W.S.A. §944.30 prohibiting prostitution, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.03(4))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-21. Offering or engaging in sexual contact for compensation.**

(a) It shall be unlawful and prohibited for any person to pay a fee or receive a fee, directly or indirectly, or to offer or ask for anything of value, for touching or offering to touch the sexual parts of another either directly or by employing a mechanical or electrically operated device for the purpose of arousing or gratifying the sexual desire of either party.

(b) It shall be unlawful for any person owning, managing or otherwise controlling any place of business to cause or to permit any agent, employee or other person under his control or supervision to participate in conduct prohibited in subsection (a) of this section.
(Code 1965, §8.09)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-22. Adoption of state law regarding obscene materials.**

W.S.A. §948.11 regarding obscene materials, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.03(5))
**Cross reference(s) –** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-23. Adoption of state law regarding damage to property.**

W.S.A. §943.01(1) regarding damage to property, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.04(1))
**Cross reference(s) –** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-24. Dumping, leveling of used building and fill material.**

No person shall dump or leave used building or fill material on any lot within the City which cannot be leveled, and all such material which can be leveled shall be leveled. The owner of any such lot shall be responsible for removing or leveling such material.
(Code 1965, §8.04(3))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-25. Operation of snowmobiles, motor-driven cycles, and motor-driven scooters.**

(a) No person shall operate a snowmobile on any school grounds or on any public property of any kind or nature belonging to the City or its departments, or on the property of any private person without the consent of the owner.

(b) No person shall operate motor-driven cycles or motor-driven scooters such as minibikes, mopeds, go-carts, motor-driven scooters, motor-driven in-line skates or similar type vehicles on school grounds or on any public property belonging to the City or on the property of any private person without the consent of the owner.
(Code 1965, §8.04(4); Ord 91-01, §1, 5-7-01)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; streets, sidewalks and other public places, ch. 16; traffic and vehicles, ch. 19.

**Sec. 10-26. Adoption of state law regarding trespass to land.**

W.S.A. §943.13 regarding trespass to land, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.04(5))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1- 18.

**Sec. 10-27. Adoption of state law regarding trespass to dwellings.**

(a) W.S.A. §943.14 regarding trespass to dwellings, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(b) W.S.A. §943.15 regarding entry unto a construction site or into a lot, building, dwelling or room, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.04(6); Ord 40-92, §1, 4-15-92)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-28. Adoption of state law regarding theft.**

(a) W.S.A. §943.20 regarding theft, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(b) W.S.A. §943.50 regarding theft, exclusive of the penalty, is hereby adopted by reference and made an

offense punishable as a violation of this Code.
(Code 1965, §8.06(1), (2); Ord 40-92, §2, 4-15-92)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-29. Defraud of merchant in return of merchandise.**

Whoever returns merchandise to a merchant for the purpose of claiming a cash refund or credit by intentionally deceiving the merchant with a representation that such merchandise was purchased by such person from such merchant at the price claimed where such merchandise was, in fact, not purchased by such person or was not purchased from such merchant or was purchased at a price lower than the price claimed shall be guilty of a violation of this chapter. The intentional giving of a false name or address to a merchant during the return of merchandise is evidence of intent to defraud a merchant.
(Code 1965, §8.06(3))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-30. Adoption of state law regarding theft of services.**

(a) W.S.A. §943.45 through §943.47 regarding theft of certain services, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(b) W.S.A. §943.21 regarding fraud on hotel or restaurant keeper, taxicab operator or gas station, exclusive of any penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.07; Ord 137-91, §1, 12-4-91; Ord 88-96, §1, 9-18-96, Ord 47-04, §1, 4-13-04)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-31. Adoption of state law regarding theft of library material.**

W.S.A. §943.61 regarding theft of library material, exclusive of any penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.10)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-32. Adoption of state law regarding possession of marijuana.**

The provisions of W.S.A. Sec. 66.0107(1)(bm) as amended from time to time, regarding the possession of twenty-five (25) grams or less of marijuana as defined in W.S.A. Sec. 961.01(14), and subject to the exceptions in W.S.A. Sec. 961.41(3g)(intro), shall be punishable as a violation of this Code, except that any person charged with possession of more than twenty-five (25) grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of marijuana in the State of Wisconsin, shall not be charged under the paragraph.
(Code 1965, §8.08)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-33. Possession, sale of isobutyl nitrate.**

No person shall manufacture, possess, use, dispense, sell or hold for sale any isobutyl nitrate, or any compound or mixture or preparation containing significant amounts of isobutyl nitrate.
(Code 1965, §8.11)

**Sec. 10-34. Adoption of state law regarding controlled substances.**

(a) W.S.A. Sec. 961.573, as amended from time to time, regarding possession of drug paraphernalia, exclusive of penalties, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(b) W.S.A. Sec. 961.574, as amended from time to time regarding manufacture or delivery of drug paraphernalia, exclusive of any penalties, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(c) W.S.A. Sec. 961.575, as amended from time to time regarding delivery of drug paraphernalia to a minor, exclusive of any penalties, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §22.11; Ord 162-10, §1, 11-23-10)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 10-35. Harboring minors.**

No person shall, unless duly licensed under the Wisconsin Statutes or without having first obtained the permission of the parents or legal guardian of any minor or without first notifying the City Police Department of the existence of a minor described in (1) below on premises owned or operated by or under the control of such person:

(1) By any means conceal or shelter or assist in the concealing or sheltering of any minor under the age of eighteen (18) years while the minor is under the legal custody of a parent or legal guardian and while the minor is on report with any law enforcement as a "missing person", a "runaway" or a "wanted" person; or

(2) Supply false information to or obstruct any

police officer in the performance of his duty to locate or take into custody any minor described in this Section.

(Ord 30-90, §1, 4-4-90)

**Sec. 10-36. Loitering by minors.**

(a) ***Definitions***. As used in this Section:

***Loitering*** means remaining idle in essentially one (1) location and shall include the concept of spending time idly; to be dilatory; to linger aimlessly; to stay; to saunter; to delay; to stand around and shall also include the colloquial expression, "hanging around".

***Minor*** means any person less than eighteen (18) years of age.

(b) ***Loitering of minors (curfew hours)***. It shall be unlawful for any minor to loiter in or upon the public streets, highways, roads, alleys, parks, public buildings, premises licensed for sale of alcoholic beverages under §9-51 et seq., of this Code, vacant lots, vacant buildings, playgrounds or school grounds in the City, either on foot or in or upon any conveyance being driven or parked thereon, between the hours of 10:00 p.m. and 5:00 a.m. of the following day, Sunday through Thursday, and between 11:00 p.m. and 5:00 a.m. Friday and Saturday, unless accompanied by his or her parent, guardian or adult person having legal custody or control.

(c) ***Responsibility of parents***. It shall be unlawful for the parent, guardian or other adult person having legal custody or control of any minor to suffer or permit or by inefficient control to allow such minor to violate this section unless the minor is accompanied by his or her parent, guardian or other adult person having legal custody or control.

(d) ***Penalty, minor***. Any minor who violates this section shall be penalized pursuant to section 1-18(b) of this Code.

(Ord 35-92, §1, 3-18-92)

**Sec. 10-37. Possession or purchase of cigarettes and tobacco products by persons under the age of eighteen.**

(a) The provisions W.S.A. §254.92 as amended regarding the possession or purchase of cigarettes and tobacco products by persons under the age of eighteen (18), exclusive of any penalty contained therein, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(b) The provisions of W.S.A. §134.66, regarding the sale or gift of cigarettes or tobacco products, exclusive of any monetary penalty contained therein, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(Ord 41-92, §1, 4-15-92; Ord 87-93, §1, 6-2-93, Ord 60-99, §1, 8-22-99, Ord 117-00, §1, 12-23-00)

**Sec. 10-38. Defacement or damage of property by graffiti.**

(a) Graffiti is hereby specifically declared to be a public nuisance, as defined in §12-27, affecting peace and safety.

(b) No person shall write, spray, scratch or otherwise affix graffiti upon any property whether private or public without the consent of the owner or owners of said property. Any person who shall affix graffiti to any property without the consent of the owner shall be liable for the costs of removing or covering such graffiti in addition to any fines imposed for violating §12-31. The parents of any unemancipated minor child who affixes graffiti may be held liable for the cost of removing or covering said graffiti in accordance with W.S.A. §895.035.

(c) Every owner or occupant of a structure or property defaced by graffiti shall notify the Police Department of the graffiti before removing or covering such graffiti.

(d) Every owner of a structure or property defaced by graffiti shall comply with the terms of a written notice served upon them by the Police Department to remove or cover such graffiti within seventy-two (72) hours of such notice.

(e) In the event any owner fails to comply with the above-mentioned notice, the Police Department shall have the graffiti covered or removed and all costs, fees and expenses will be assessed to such owners' real estate taxes.

(Ord 104-92, §1, 9-16-92; Ord 124-96, §1, 12-18-96)

**Sec. 10-39. Chemical propellants.**

The provisions of Wisconsin Statutes §941.26 regarding chemical propellants, exclusive of any penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(Ord 14-93, §1, 1-20-93; Ord 138-94, §1, 11-16-94)

**Sec. 10-40. Loitering.**

(a) ***Definitions.*** As used in this section:

***Loitering*** means remaining idle in essentially one (1) location and shall include the concept of spending time idly; to be dilatory; to linger aimlessly; to stay; to saunter; to delay; to stand around, and shall also include the colloquial expression, "hanging around".

***Roadway*** means that portion of a highway, as defined

in W.S.A. §340.01(22), between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel or parking.

(b) ***Loitering in the roadway.*** It shall be unlawful for any person to loiter in or upon any roadway.

(c) ***Penalty.*** Any person who violates this section shall be penalized pursuant to §1-16 of this Code.
(Ord 91-93, §1, 6-16-93)

**Sec. 10-41. Facsimile firearms.**

(a) In this section, "facsimile firearm" means any replica, toy, starter pistol or other object that bears a reasonable resemblance to or that reasonably can be perceived to be an actual firearm. "Facsimile firearm" does not include any actual firearm.

(b) No person may carry or display a facsimile firearm in a manner that could reasonably be expected to alarm, intimidate, threaten or terrify another person.

(c) No person may violate subsection (b) while on or otherwise within five hundred (500) feet of any private or public school premises.

(d) This section does not apply to any law enforcement officer acting in his or her official duties.
(Ord 98-94, §1, 7-20-94)

**Sec. 10-42. Truancy and habitual truancy.**

(a) ***Definitions.*** All terms herein, to the extent not specifically defined, shall have the same meanings as those terms used in context of the Wisconsin Statutes referred to below.

***Acceptable excuse*** means permission of the parent/guardian/legal custodian of a pupil, within limits of policies on truancy established by the school in which the pupil is enrolled. Except in emergencies or unforeseeable circumstances, such permission is expected to be communicated in writing from the parent/guardian/legal custodian to the school, prior to the absence. In emergencies or unforeseeable circumstances, such communication is expected to be as soon as practicable following the absence.

***Truant*** means a pupil who is absent from school without an acceptable excuse under Wisconsin Statutes §118.15 and §118.16(4) for part or all of any day on which school is held during a school semester.

***Habitual truant*** means a pupil who is absent from school without an acceptable excuse under Wisconsin Statutes §118.15 and §118.16(4) for part or all of five (5) or more days on which school is held during the school semester.

(b) ***Prohibited acts***. It shall be a violation of this section for a child to be a truant or habitual truant. Any child violating this section shall be subject to one (1) or more of the penalties provided in subsections (c) and (d) below respectively.

(c) ***Truancy penalties***. For a child under the age of eighteen (18) who is found to be truant, all dispositions listed in W.S.A. §118.163(1m)(a)-(c), shall be available to the court.

(d) ***Habitual truancy penalties***. For a child under the age of eighteen (18) who is found to be a habitual truant, all dispositions listed in W.S.A. §118.163(2)(a)-(L), shall be available to the court.
(Ord 1-11, §1, 1-11-11)

**Sec. 10-43. Adoption of state law regarding contributing to truancy.**

The provisions of W.S.A. §948.45, exclusive of any provisions relating to the penalty to be imposed or the punishment for the violations thereof, are hereby adopted and made part of this section by reference and made an offense punishable as a violation of this Code.
(Ord 66-97, §1, 7-17-97)

**Sec. 10-44. Adoption of state law regarding laser pointers.**

The provisions of W.S.A. §941.299, exclusive of any provisions relating to the penalty to be imposed or the punishment for the violations thereof, are hereby adopted and made part of this section by reference and made an offense punishable as a violation of this Code.
(Ord 115-00, §1, 11-18-00)

**Sec. 10-45. Urinating or defecating in public.**

No person shall urinate or defecate outside of any designated sanitary facilities, upon any sidewalk, street, alley, public parking lot or ramp, park, playground, cemetery, or other public area or upon any private property in open view of the public or in the halls, rooms without restroom facilities, stairways or elevators of public or commercial buildings.
(Ord 139-01, §1, 8-20-01)

**Sec. 10-46. Reserved.**

(Ord 123-03, §1, 7-8-03)
**Editor's Note:** This section, §10-46, smoking on City property, was repealed by the Smoke Free Indoor Air Ordinance, Ord 35-05, §1, effective 7-1-05.

**Sec. 10-47. Animals at special events prohibited.**

(a) Animals are prohibited on public property located within the Downtown District (Richmond Street to Drew Street/south side of Lawrence Street to north side of Washington Street) on the following special event days: Flag Day Parade, License to Cruise, Octoberfest, Christmas Parade, and any day that a planned/permitted special event would close one or more blocks within the Downtown District to normal use or traffic, except by written permission from the event permit holder for special activities in accordance with the event.

(b) Exemption to the enforcement of this chapter are dogs specially trained to lead blind or deaf persons to provide support for mobility-impaired persons, or animals to assist with emergency personnel.

(c) Animal shall have the same meaning as set forth in Section 3-1.
(Ord 30-03, §1, 2-11-03)

**Sec. 10-48. Firearms restricted in certain City buildings.**

(a) ***Definitions.***

(1) ***Firearm*** means a weapon that acts by force of gunpowder.

(2) ***Law enforcement officer*** means a person who is employed by a law enforcement agency as defined in Wisconsin Statutes Section 175.49(1)(f) for the purpose of engaging in, or supervising others engaging in, the prevention, detection, investigation or prosecution of, or the incarceration of any person for, any violation of law and who has statutory powers of arrest.

(3) ***Weapon*** means a handgun, an electronic weapon as defined as Wis. Stats. §941.295 (1c)(a), a knife, or a billy club.

(b) In addition to the provisions of Wis. Stats. §175.60 enumerating places where the carrying of a weapon or a firearm is prohibited, including exceptions thereto, it shall be unlawful for any person other than a law enforcement officer to enter any posted building, or portion of a posted building owned, occupied or controlled by the City of Appleton while carrying a firearm or concealed weapon.

(c) Signs meeting the requirements of Wis. Stats. §943.13(2)(bm)1 shall be posted in prominent places near all entrances of such buildings regarding such restriction.

(d) Any person who enters or remains in any aforementioned City building contrary to such signage shall be considered a trespasser subject to penalty as proscribed under §10-26 of this code.
(Ord 221-11, §1, 11-1-11; Ord 39-16, §1, 3-22-16)

**10-49. Adoption of state law regarding possession of a firearm in a school zone.**

W.S.A. §948.605 regarding possession of a firearm in a school zone, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this code.
(Ord 7-14, §1, 3-11-14)

*(The next page is 753)*

# Chapter 11

## Manufactured and Mobile Homes and Manufactured and Mobile Home Communities

**ARTICLE I. IN GENERAL**
Purpose of chapter ..... 11-1
Definitions ..... 11-2
Manufactured and mobile home parking fee ..... 11-3
Placement of manufactured and mobile homes outside licensed community prohibited; exceptions ..... 11-4
Stopping or parking manufactured and mobile home on street ..... 11-5
Damaged or dilapidated manufactured and mobile homes ..... 11-6
Compliance with building regulations ..... 11-7
Skirting; storage under manufactured and mobile homes ..... 11-8
Construction or alteration of attachments and accessory structures ..... 11-9
Reserved ..... 11-10 – 11-25

**ARTICLE II. MANUFACTURED AND MOBILE HOME COMMUNITIES**
DIVISION 1. GENERALLY
Special use permit for construction or expansion ..... 11-26
Required ..... 11-26(a)
Application; issuance ..... 11-26(b)
Responsibilities of management ..... 11-27
Responsibilities of occupants ..... 11-28
Reserved ..... 11-29 – 11-45
DIVISION 2. LICENSES
Manufactured and mobile home community license – required ..... 11-46
Manufactured and mobile home community license – term ..... 11-47
Manufactured and mobile home community license – fee; bond ..... 11-48
Manufactured and mobile home community license – standards of issuance ..... 11-49
Manufactured and mobile home community license – appeal of denial ..... 11-50
Manufactured and mobile home community license – revocation or suspension ..... 11-51
Health Department license – required ..... 11-52
Health Department license – application ..... 11-53
Health Department license – fees ..... 11-54
Health Department license – pre-inspection fee ..... 11-55
Health Department license – issuance ..... 11-56
Health Department license – expiration and renewal ..... 11-57
Health Department license – suspension and revocation; appeal ..... 11-58
Health Department license – transfer ..... 11-59
Health Department license – regulations ..... 11-60
Generally ..... 11-60(a)
Emergency health hazard regulations ..... 11-60(b)
Health Department license – inspection ..... 11-61
Health Department license – enforcement ..... 11-62
Reserved ..... 11-63 – 11-70
DIVISION 3. DESIGN STANDARDS
Applicability of division ..... 11-71
Adoption of state law ..... 11-72
Site and lots; spacing of units ..... 11-73
Use of city water and sewer service required ..... 11-74
Specifications for water utility ..... 11-75
Fire hydrants ..... 11-76

Specifications for sewer system ..... 11-77
Electrical distribution system ..... 11-78
Off-street parking spaces ..... 11-79
Pad; tie-downs ..... 11-80
Topography of site; exposure to adverse conditions ..... 11-81
Erosion and dust control ..... 11-82
Drainage of surface water ..... 11-83
Lighting ..... 11-84
Streets generally ..... 11-85
Marking of streets and parking areas ..... 11-86
Numbering of units ..... 11-87
Pedestrian walkways ..... 11-88
Buffer strip ..... 11-89
Recreation area ..... 11-90
Signs ..... 11-91
Entrances ..... 11-92
Accessory storage buildings ..... 11-93

Editor's Note: This chapter was repealed and recreated pursuant to Ordinance 79-08, adopted April 16, 2008 and published April 21, 2008, becoming effective on April 22, 2008.

**Cross reference(s)** – Buildings and building regulations, ch. 4; numbering system for mobile homes, §4-3; mobile homes and parking of trailers restrictions in parks and recreation areas, §13-86.
**State law reference(s)** – Mobile homes, W.S.A. §66.058; manufactured housing, W.S.A. §101.90 et seq.

## ARTICLE I. IN GENERAL

### Sec. 11-1. Purpose of chapter.

The standards and requirements for manufactured and mobile home community design, layout and development contained in this chapter are intended to be the minimum standards necessary to uphold the public's health, safety and welfare in manufactured and mobile homes and manufactured and mobile home communities in the City. The express enumeration of such standards shall not preclude the Common Council, by resolution or by law, or through express written agreement with the manufactured and mobile home community owner or developer, from imposing modifications or additions to the requirements of this chapter. The Council shall only modify or add to such requirements when it is determined that such modifications or additions are more likely to achieve the purpose set out in this section than the requirements set forth in this chapter, and will not conflict with applicable laws of the state.

### Sec. 11-2. Definitions.

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

***Accessory structure*** means all structures constructed on a manufactured and mobile home lot apart from the basic manufactured and mobile home unit, and shall include awnings, cabanas, storage cabinets or sheds, carports, windbreaks, attached porches and garages.

***Common area*** means any area or space designed for joint use of tenants occupying the community.

***Community*** means a manufactured and mobile home community.

***Community management*** means the person or entity who owns or has charge, care or control of the community.

***Community street*** means a private way which affords the principal means of access to individual manufactured or mobile home lots or auxiliary buildings.

***Driveway*** means a minor private way used by vehicles and pedestrians on a manufactured or mobile home lot or used for common access to a small group of lots or facilities.

***Health Department license*** means a license issued by the City Health Department under the provisions of this chapter.

***License*** means a written license issued by the City Clerk allowing a person to operate and maintain a community under the provisions of this chapter and regulations issued under this chapter.

***Lot*** means a parcel of land located in a community for the placement of a single manufactured or mobile home and the exclusive use of its occupants.

***Lot area*** means the total area reserved for exclusive use of the occupants of a manufactured or mobile home.

***Manufactured and mobile home community*** means any plot or plots of ground upon which three (3) or more manufactured homes or mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether a charge is made for the accommodation.

***Manufactured home*** has the meaning given in W.S.A. §101.91(2) and includes foundations and accessory structures.

***Mobile home*** has the meaning given in W.S.A. §101.91(10) and includes foundations and accessory structures.

***Mobile home stand*** means that part of an individual lot which has been reserved for the placement of one (1) manufactured or mobile home unit.

***Municipal permit fee*** means the fee defined in W.S.A. §66.0435(3)

***Permit*** means any written permit issued by the City in accordance with this chapter, including a special use permit under the provisions of the zoning regulations.

***Special use permit*** means a special use permit issued by the City permitting the construction, alteration and extension of a community under the provisions of this chapter and the regulations issued under this chapter.

***Street*** means the paved or surfaced portion of a roadway between two (2) curbs.

***Unit*** means a manufactured or mobile home.
(Ord 42-92, §1, 4-15-92, Ord 79-08, §1, 4-22-08)
**Cross reference(s)** – Definitions and rules of construction generally, §1-2.

### Sec. 11-3. Manufactured and mobile home municipal permit fee.

(a) There is hereby imposed on each owner of a nonexempt manufactured or mobile home in the City a monthly municipal permit fee determined in accordance

with W.S.A. §66.0435(3). It shall be the full and complete responsibility of the community licensee to collect the proper amount from each unit's owner or occupant. Licensees and owners and occupants of units permitted to be located on land outside a community and the owners of land on which such homes are parked shall pay such municipal permit fees to the Director of Finance on or before the tenth (10th) day of the month following the month for which such fees are due, in accordance with terms of this chapter and such reasonable regulations as the Director of Finance may promulgate. Remittances delinquent for seven (7) business days beyond the tenth (10th) day of the month shall be considered in default and shall subject the licensee to revocation of the city license.

(b) Licensees under this chapter and owners of land on which any unit is parked shall inform the assessor of such units as are added to their community or lands within five (5) days after the arrival of such unit on forms furnished by the assessor in accordance with W.S.A. §66.0435(3)(c) and (e).
(Ord 4-93, §1, 1-6-93; Ord 79-08, §1, 4-22-08)

**Sec. 11-4. Placement of manufactured or mobile homes outside licensed community prohibited; exceptions.**

No person shall park, locate or place any unit outside of a licensed community in the City, except for unoccupied units parked on the lawfully situated premises of a licensed manufactured or mobile home dealer for purpose of sales and display, and units parked on the lawfully situated premises of a vehicle service business for purposes of servicing or making necessary repairs and portable field offices for construction projects and structures which meet the design requirements of §23-51.
(Ord 120-95, §1, 11-15-95, Ord 79-08, §1, 4-22-08)

**Sec. 11-5. Stopping or parking manufactured or mobile home on street.**

No person shall stop, stand or park a manufactured or mobile home in any street, alley or highway within the City in violation of W.S.A. chapters 340 and 348 or ordinances or regulations of the City.
(Ord 79-08, §1, 4-22-08)

**Sec. 11-6. Damaged or dilapidated manufactured or mobile homes.**

Wrecked, damaged or dilapidated manufactured or mobile homes shall not be kept or stored in a community or upon any premises in the City. The building inspector shall determine if a unit is damaged or dilapidated to a point which makes it unfit for human occupancy. Such units are hereby declared to be a public nuisance. Whenever the inspector so determines, he shall notify the licensee or landowner and the owner of the unit in writing that such public nuisance exists within the community or on lands owned by him, giving the findings upon which his determination is based, and shall order such unit removed from the community or site or repaired to a safe, sanitary and wholesome condition of occupancy within a reasonable time.
(Ord 79-08, §1, 4-22-08)

**Sec. 11-7. Compliance with building regulations.**

All plumbing, building, electrical work, oil or gas distribution and alterations or repairs in a community shall be in accordance with applicable law and the ordinances and regulations of the State and the City and their authorized agents.
(Ord 79-08, §1, 4-22-08)

**Sec. 11-8. Skirting; storage under manufactured or mobile homes.**

All manufactured or mobile homes in communities shall be skirted within thirty (30) days of placement of the unit unless the unit is placed within one (1) foot vertically of the stand with soil or other material completely closing such space from view and entry by rodents and vermin. Areas enclosed by such skirting shall be maintained and kept free of rodents and fire hazards. All skirts shall be of fire-resistant material. Storage under a unit is prohibited.
(Ord 79-08, §1, 4-22-08)

**Sec. 11-9. Construction or alteration of attachments and accessory structures.**

Except as otherwise provided in this chapter, no person shall construct, add to or alter any structure, attachment or building in a community or on a manufactured or mobile home space without written permission from the City building inspector. Construction on or addition or alteration to the exterior of a unit shall be of the same type of construction and materials as the unit affected. This section shall not apply to the addition of awnings, antennas or skirting to units. Accessory structures on manufactured or mobile home spaces shall comply with all setback, side yard and rear yard requirements for manufactured or mobile home units.
(Ord 79-08, §1, 4-22-08)

**Secs. 11-10 – 11-25. Reserved.**

## ARTICLE II. MANUFACTURED AND MOBILE HOME COMMUNITIES

### DIVISION 1. GENERALLY

**Sec. 11-26. Special use permit for construction or expansion.**

(a) ***Required.*** No person shall construct or expand any manufactured and mobile home community without first securing a special use permit from the City.

(b) ***Application; issuance.*** Application for a manufactured and mobile home community special use permit shall be obtained pursuant to the provisions of the Zoning Code. No such permit shall be issued to applicants in arrears on financial obligations of any kind to the City. (Ord 79-08, §1, 4-22-08)

**Sec. 11-27. Responsibilities of management.**

(a) In every manufactured and mobile home community, there shall be located an office of the attendant or person in charge of the community. A copy of the community's license and of this chapter shall be posted therein and the community's register shall be kept in the office at all times.

(b) The attendant or person in charge and the community's licensee shall operate the community in compliance with the chapter and regulations and ordinances of the city and state and their agents or officers, and shall have the following duties:

(1) The management shall maintain a register of all of the community's occupants, to be open at all times to inspection by state, federal and city officers, which shall show the names and addresses of all owners and occupants of each unit.

(2) The management shall annually provide the Fire, Health and Police Departments with a list of persons who can be contacted in the event of fire, explosion, severe storm damage or other emergency.

(3) The management shall notify the community's occupants of the provisions of this chapter and inform them of their duties and responsibilities, and report promptly to the proper authorities any violations of this chapter or any violations of law which may come to their attention.

(4) The management shall supervise the placement of each unit on its stand, which includes securing its stability and installing all utility connections.

(5) The management shall maintain community grounds, buildings and structures free of insect and rodent harborage and infestation and accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.

(6) The management shall maintain the community free from growth of noxious weeds.

(7) The management shall maintain the community free of litter, rubbish, and other flammable materials, provide portable fire extinguishers of a type approved by the Fire Chief in any community building used by the public, and cause every area within the community designated as a fire lane by the Fire Chief to be kept free and clear of obstructions.

(8) No person shall store LP gas containers under a unit. All containers, full or empty, shall be secured in place, and all containers and LP gas service shall comply with Wisconsin Administrative Code, ILHR 11.

(9) The management shall require every unit to be provided with solid waste containers as set forth in §15-28.

(10) The management shall provide for the sanitary and safe removal and disposal of all refuse and garbage. Removal and disposal of garbage and refuse shall be in accordance with the laws of the state and the ordinances and regulations of the City, including regulations promulgated by the Health Officer and the Fire Chief.

(11) The management shall collect the municipal permit fee for each occupied nonexempt unit within the community and remit such fees and deposits to the Director of Finance as required by §11-3.

(12) The management shall allow inspections of community premises and facilities at reasonable times by municipal officials and their agents or employees.

(13) In cases where the owner of the community is also the owner of a unit and leases the unit to occupant, the unit shall be made available for inspection at reasonable times by City agents, and the owner shall maintain the units in good repair and in a clean and sanitary condition.

(Ord 4-93, §1, 1-6-93; Ord 79-08, §1, 4-22-08)

**Cross reference(s) –** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 11-28. Responsibilities of occupants.**

(a) Manufactured and mobile home community occupants shall comply with all applicable requirements of this chapter and regulations issued under this chapter and shall maintain their unit's space, its facilities and equipment in good repair and in clean and sanitary condition.

(b) Each owner or occupant of a nonexempt unit within a community shall remit to the licensee or authorized community management the municipal permit fee as required under State Statutes.

(c) Units shall be parked only on the stands provided and shall be placed thereon in accordance with all requirements of this chapter.

(d) No owner or occupant shall conduct in any unit or any community any business or engage in any other activity which would not be permitted by the use regulations of the City Zoning Code.

(e) No person shall erect or place upon any unit's space any permanent or temporary structure intended to be used for dwelling purposes or in connection with any unit, except as specifically authorized by this chapter.
(Ord 79-08, §1, 4-22-08)

**Sec. 11-29 – 11-45. Reserved.**

## DIVISION 2. LICENSES*

### Sec. 11-46. Manufactured and mobile home community license – required.

No person shall operate or maintain a manufactured and mobile home community within the city without a valid, unexpired community license issued by the City Clerk and approved by the Common Council.
(Ord 79-08, §1, 4-22-08)
**Cross reference(s) –** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

### Sec. 11-47. Manufactured and mobile home community license – term.

Manufactured and mobile home community licenses shall be issued for a fiscal year and shall expire on June 30 next succeeding the date of issue. Licenses may be issued after July 1 of any year, but no rebate or diminution of the fee shall be allowed.
(Ord 79-08, §1, 4-22-08)

### Sec. 11-48. Manufactured and mobile home community license – fee; bond.

(a) The license fee for a manufactured and mobile home community license is one hundred dollars ($100).

(b) The applicant shall furnish a surety bond in the amount of five thousand dollars ($5,000).

### Sec. 11-49. Manufactured and mobile home community license – standards of issuance.

Manufactured and mobile home community licenses shall be granted subject to the following standards:

(1) Compliance with state law and local ordinances, rules and regulations.

(2) Compliance with City zoning ordinances and procurement of any permits affecting land use which may be required.

(3) Compliance with the applicable ordinances of the city, as well as payment of all outstanding obligations due the City as certified by reports from the Inspections Division, Police, Community Development Department, Health, Finance and Fire Departments.

(Ord 79-08, §1, 4-22-08)
**Cross reference(s) –** Licenses, permits and business regulations, Ch. 9.

**Sec. 11-50. Manufactured and mobile home community license – appeal of denial.**

If an application for a license under this division is recommended for denial, the City Clerk shall forthwith notify the applicant by certified mail, return receipt requested of the denial and the reason therefore. The notice shall indicate the date and time of the review of the denial by the Safety and Licensing Committee and the right of the applicant to appear before the Committee. The Safety and Licensing Committee shall hear any person for or against granting the license and shall report its recommendation to the Common Council, which shall grant or deny the license.

**Sec. 11-51. Manufactured and mobile home community license – revocation or suspension.**

Licenses granted under this division shall be subject to revocation or suspension by the Common Council for cause in accordance with W.S.A. §66.0435(2)(d). Cause, as used in this section, shall include, but not be limited to:

(1) Failure or neglect to abide by the requirements of this chapter or the laws of regulations of the state relating to communities and their operation.

(2) Conviction of any offense under the laws of the state or ordinances of the city relating to fraudulent or misleading advertising or deceptive practices regarding the sale or renting of manufactured or mobile home spaces or sale, lease or operation of community facilities.

(3) Operation or maintenance of the community in a manner detrimental to the health, safety or welfare of occupants or the inhabitants of the city, including, but not limited to, repeated violations of laws or ordinances related to health, sanitation, refuse disposal, fire hazards, morals or nuisances.

(Ord 79-08, §1, 4-22-08)

**Sec. 11-52. Health Department license – required.**

No person shall conduct a business of or operate a manufactured and mobile home community as defined by W.S.A. §101.97(5m) without obtaining a Health Department license in accordance with Wisconsin Administrative Code, Chapter SPS 326.
(Ord 25-03, §1, 1-21-03; Ord 79-08, §1, 4-22-08; Ord 25-12, §1, 3-7-12)

**Sec. 11-53. Health Department license – application.**

Application for Health Department license shall be made upon a form furnished by the Department and shall contain such information which the Department may require and shall be accompanied by payment of the applicable license fee in §11-54.
(Ord 79-08, §1, 4-22-08)

**Sec. 11-54. Health Department license – fees.**

(a) Fees for Health Department issued licenses shall be on file with that department.

(b) In addition, the applicant must pay any state administrative fees, the amount of which is on file with the Health Department.
(Code 1965, §7.15(1)(G); Ord 100-90, §1(G), 11-7-90; Ord 111-91, §1, 11-6-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 46-93, §1, 3-17-93; Ord 79-08, §1, 4-22-08)

**Sec. 11-55. Health Department license – pre-inspection; fee.**

A Health Department license will not be granted to an operator of a new establishment or to a new operator of an existing establishment without a preinspection. A preinspection fee will be assessed for each establishment according to the schedule on file in the Health Department.
(Ord 38-95, §1, 4-19-95; Ord 79-08, §1, 4-22-08)

**Sec. 11-56. Health Department license – issuance.**

Licenses, when approved by the Health Department, shall be issued by the Health Officer.
(Ord 79-08, §1, 4-22-08)

**Sec. 11-57. Health Department license – expiration and renewal.**

Except where otherwise provided, every Health Department license shall terminate or expire on June 30 of each year and may be renewed annually thereafter. The application for renewal shall be filed with the Health Department on or before June 30, together with payment of the required fee. If the annual renewal fee has not been paid on or before June 30, an additional late payment fee shall be required, the amount of which is on file with the Health Department. Establishments operating on July 15, without a proper Health Department license shall be ordered closed by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18. Each violation and each day a violation continues or occurs shall constitute a separate offense.
(Ord 111-95, §1, 11-15-95)

**Sec. 11-58. Health Department license – suspension and revocation; appeal.**

(a) The Health Officer may suspend or revoke any Health Department license issued for violations of ordinances or laws regulating the licensed activity and for other good cause.

(b) Any person aggrieved by suspension or revocation of Health Department license by the Health Officer, or any temporary suspension or any other order, may appeal any such order to the Board of Health within thirty (30) days of suspension, revocation, or issuance of the order. The Board of Health shall provide appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order pending determination of the appeal. The Board of Health may affirm, modify, or set aside the order of the Health Officer after hearing on the matter. The Board of Health shall make and keep a record of all proceedings relating to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record.

**Sec. 11-59. Health Department license – transfer.**

The Health Department license may not be transferred.
(Ord 79-08, §1, 4-22-08)

**Sec. 11-60. Health Department license – regulations.**

(a) ***Generally.*** All manufactured and mobile home community licenses shall be subject to and comply with Wisconsin Administrative Code, SPS 326.01 through 326.49, which are hereby adopted by reference and incorporated herein.

(b) ***Emergency health hazard regulations.*** Whenever the Health Officer or an authorized agent has reasonable or probable cause to believe that any sanitary condition, equipment, premises or method of operation thereof creates a danger to public health, the Health Officer may issue a temporary order prohibiting the continued operation of the premises or any part thereof which creates the immediate danger to health. The Health Officer or an authorized agent may suspend any license without notice, whenever the licensed premises, constitutes an immediate health hazard.
(Ord 26-03, §1, 1-21-03; Ord 79-08, §1, 4-22-08; Ord 25-12, §1, 3-7-12)

**Sec. 11-61. Health Department license – inspection.**

The Health Officer or designee may enter any premises issued a Health Department license at all reasonable times to inspect the premises, secure samples or specimens, examine and copy documents, obtain photographs or take any other action he deems necessary to properly enforce the provisions of applicable laws regulating such business or activity.
(Ord 79-08, §1, 4-22-08)

**Sec. 11-62. Health Department license – enforcement.**

Whenever the Health Officer or designee finds that any establishment is not operating or equipped in any manner required by ordinances or laws regulating such establishment, the Health Officer or designee may notify, in writing, the person operating the premises specifying the requirements of such ordinance or law and requiring that such business comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit, or any extension thereof, set forth in the notification is not met, the Health Department license may be suspended or revoked by the Health Officer. The Health Officer may also require the issuance of citations for any such violations pursuant to the provisions of §1-18.
(Ord 79-08, §1, 4-22-08)

**Secs. 11-63 – 11-70. Reserved.**

## DIVISION 3. DESIGN STANDARDS

### Sec. 11-71. Applicability of division.

All new manufactured and mobile home communities or additions, or extensions to communities existing on the effective date of the ordinance adopting this code of ordinances, shall comply with the provisions of this division.
(Ord 79-08, §1, 4-22-08)

### Sec. 11-72. Adoption of state law.

Wisconsin Administrative Code, chapters SPS 382 and SPS 326, are hereby made a part of this chapter and incorporated as part of this section by reference as if fully set forth in this section, except that such regulations shall not be deemed to modify any requirement of this chapter or any other applicable law or ordinance of the state or the city which is more restrictive.
(Ord 27-03, §1, 1-21-03; Ord 79-08, §1, 4-22-08; Ord 25-12, §1, 3-7-12)

### Sec. 11-73. Site and lots; spacing of units.

The community shall conform to the following standards:

(1) The community shall be located on a site having a minimum of twenty (20) acres of land.

(2) Each space shall have an area of not less than four thousand five hundred (4,500) square feet and a width of not less than forty-five (45) feet.

(3) All manufactured or mobile homes shall be located on a site so that there shall be at least twenty (20) feet of clearance between basic units, at least twelve (12) feet of clearance between units and rear lot lines, and at least ten (10) feet of clearance to side lot lines.

(4) No manufactured or mobile home unit or accessory structure shall be located closer than twenty-five (25) feet to any common community area, community maintenance building or administrative building within the community, or to any property line of the community.

(5) Attached accessory structures shall be no closer than six (6) feet to side and rear property lines.

(Ord 79-08, §1, 4-22-08)

### Sec. 11-74. Use of city water and sewer service required.

No manufactured and mobile home community shall be laid out, constructed or operated without city water supply and sanitary sewer service available to the site. All water or sanitary sewer facilities in any unit not connected with public water and sewer systems by approved pipe connections shall be sealed and their use declared unlawful.
(Ord 79-08, §1, 4-22-08)
**Cross reference(s)** – Utilities, ch. 20.

### Sec. 11-75. Specifications for water utility.

(a) All water main and water services materials, as well as installation, shall meet existing specifications on file with the utility for single-family residential areas.

(b) Depth of mains and services shall be a minimum of six (6) feet, with each unit supplied with an independent curb box and meter. In lieu of independent meters, a master meter may be installed.
**Cross reference(s)** – Water utility, §20.31 et seq.

### Sec. 11-76. Fire hydrants.

Fire hydrants shall be installed within two hundred fifty (250) feet of every manufactured or mobile home stand and community building. Where these standards do not apply due to the fact that the community was in existence prior to the effective date of the ordinance adopting this Municipal Code or the date it was annexed to the City, the Fire Chief may order the licensee to install fire hydrants within two hundred fifty (250) feet of every manufactured or mobile home stand and community building and provide that the order be complied with within two (2) years, where in his discretion and opinion fire protection cannot otherwise be adequately provided.
(Ord 79-08, §1, 4-22-08)
**Cross reference(s)** – Fire prevention and protection, ch. 6; water utility, §20.31 et seq.

### Sec. 11-77. Specifications for sewer system.

All liquid wastes originating at units or service or other buildings shall be discharged into a sewer system. Such system shall comply with all provisions of the state code and city ordinances relating to plumbing and sanitation. Each individual space shall be provided with a three- (3-) inch watertight sewer connection protected from damage by heating and thawing or parking of the unit, with a continuous grade, which is not subject to surface drainage, so constructed that it can be closed when not in use and sealcapped in such a manner that it can be kept odor-free.
**Cross reference(s)** – Sewers and wastewater disposal, §4-341, §20-66, et seq.

### Sec. 11-78. Electrical distribution system.

Electrical distribution systems shall be new and all parts and installations shall comply with all applicable state and

local codes as adopted by §4-342.
(Ord 79-08, §1, 4-22-08)
**Cross reference(s)** – Electrical code, §4-311, et seq.

**Sec. 11-79. Off-street parking spaces.**

A minimum of two (2) off-street parking spaces surfaced with bituminous concrete or Portland cement concrete capable of carrying a gross vehicle weight of three thousand (3,000) pounds shall be provided for each manufactured and mobile home space for new areas.
(Ord 79-08, §1, 4-22-08)

**Sec. 11-80. Pad; tie-downs.**

Each manufactured and mobile home stand shall be provided with an asphalt or concrete pad, concrete footings, or the equivalent, complete with approved tie-downs, which shall be connected when the manufactured or mobile home is placed upon the lot and shall remain connected until the manufactured or mobile home unit is removed from the lot, as determined by the Inspections Supervisor, to provide for solid footing of the unit.
(Ord 79-08, §1, 4-22-08)

**Sec. 11-81. Topography of site; exposure to adverse conditions.**

The condition of the soil, groundwater level, drainage and topography of the site shall not create hazards to the property, health or safety of occupants of manufactured or mobile home spaces or living unit. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable or sudden flooding, subsidence or erosion shall be used for any purpose which would expose persons or property within or outside of the community to hazards.
(Ord 79-08, §1, 4-22-08)

**Sec. 11-82. Erosion and dust control**.

Exposed ground surfaces in all parts of every manufactured and mobile home community shall be maintained in such a way as to prevent soil erosion and eliminate objectionable dust.
(Ord 79-08, §1, 4-22-08)

**Sec. 11-83. Drainage of surface water.**

The ground surface in all parts of every manufactured and mobile home community shall be graded and equipped to drain all surface water in a safe, sanitary and efficient manner.
(Ord 79-08, §1, 4-22-08)

**Sec. 11-84. Lighting.**

All communities shall be furnished with lighting so spaced and equipped with luminaries placed at such heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:

(1) All parts of community street systems shall be illuminated at an average level of six-tenths (0.6) foot-candle, with a minimum of one-tenth (0.1) foot-candle.

(2) Potentially hazardous locations such as major community street intersections and steps or stepped rams shall be individually illuminated with a minimum of three-tenths (0.3) foot-candle.

(Ord 79-08, §1, 4-22-08)

**Sec. 11-85. Streets generally.**

All unit spaces shall abut upon a community street. Widths of streets shall be in accordance with Wisconsin Administrative Code, SPS 326. All community streets shall be constructed in a manner that is consistent with standards established by the Department of Public Works.
(Ord 28-03,§1, 1-21-03; Ord 79-08, §1, 4-22-08; Ord 25-12, §1, 3-7-12)
**Cross reference(s)** – Streets, §16-36 et seq.

**Sec. 11-86. Marking of streets and parking areas.**

Streets shall be clearly marked by signing at appropriate corners or intersections. Signs should be of standard size and be reflectorized. All fire lanes and restricted parking, standing or stopping areas should be clearly marked with pavement markings and signed according to city ordinance or state law.

**Sec. 11-87. Numbering of units.**

Each unit shall have a separate or distinct number for ease of identification. Numbers shall meet the size and placement requirements set forth in §4-3.
(Ord 79-08, §1, 4-22-08)
**Cross reference(s) –** Building marking system, §4-3.

**Sec. 11-88. Pedestrian walkways.**

All communities shall be provided with pedestrian walks not less than three (3) feet in width between individual manufactured and mobile homes, community streets and facilities.
(Ord 79-08, §1, 4-22-08)
**Cross reference(s)** – Sidewalks, §16-56 et seq.

**Sec. 11-89. Buffer strip.**

In addition to standard lot setbacks, all manufactured and mobile home communities shall have a greenbelt or buffer strip not less than fifteen (15) feet wide along all boundaries. Unless adequately screened by existing vegetative cover, all manufactured and mobile home communities shall be provided within such greenbelt or buffer strip with a screening of natural growth. Permanent plantings shall be grown and maintained at a height of not less than six (6) feet. Screening or planting requirements may be waived or modified by the Common Council if it finds that the exterior, architectural appeal, concerns for public safety or functional plan of the community, when completed, will be materially enhanced by modification or elimination of such screen planting requirements.
(Ord 79-08, §1, 4-22-08)

**Sec. 11-90. Recreation area.**

*(The next page is 813.)*

All manufactured and mobile home communities shall contain one (1) or more recreation areas easily accessible to all community residents. Such areas shall be a minimum of one-half (½) acre for each fifty (50) spaces. Recreation areas shall be so located as to be free of traffic hazards.
(Ord 79-08, §1, 4-22-08)
**Cross reference(s) –** Parks and recreation, ch 13.

**Sec. 11-91. Signs.**

No signs more than two (2) square feet in area shall be erected in manufactured and mobile home communities except traffic signs, street signs and markings, signs pertaining to the lease, hire or sale of individual units, and one (1) community identification sign not more than forty-eight (48) square feet in area at each community entrance.
(Ord 79-08, §1, 4-22-08)
**Cross reference(s)** – Signs, §23-500.

**Sec. 11-92. Entrances.**

Entrances to manufactured and mobile home communities shall be designed to minimize congestion and traffic hazards and allow free movement of traffic on adjacent streets.
(Ord 79-08, §1, 4-22-08)
**Cross reference(s) –** Traffic and vehicles, ch. 19

**Sec. 11-93. Accessory storage buildings.**

Accessory storage buildings shall be placed at least three (3) feet from the rear line of each lot and not closer than three (3) feet to any unit. Persons or parties not in compliance shall be issued a sixty- (60-) day notice to properly place the accessory storage buildings or structures by the Inspections Division.
(Ord 176-93, §1, 10-19-93; Ord 125-96, §1, 12-18-96; Ord 79-08, §1, 4-22-08)

# Chapter 12

# Nuisances

**ARTICLE I. IN GENERAL**
Billposting; definitions ..... 12-1
Billposting prohibited ..... 12-2
Reserved ..... 12-3 – 12-25

**ARTICLE II. PUBLIC NUISANCES GENERALLY**
Penalty for violation of article ..... 12-26
Public nuisance defined ..... 12-27
Public nuisances affecting health ..... 12-28
Public nuisances offending morals and decency ..... 12-29
Public nuisances affecting peace and safety ..... 12-30
Public nuisances prohibited ..... 12-31
Abatement – generally ..... 12-32
Responsibility for enforcement; inspections ..... 12-32(a)
Summary abatement ..... 12-32(b)
Order of abatement ..... 12-32(b)(1)
Abatement by City ..... 12-32(b)(2)
Nonsummary abatement by City ..... 12-32(c)
Order to abate nuisance ..... 12-32(c)(1)
Abatement by City ..... 12-32(c)(2)
Remedy from order ..... 12-32(c)(3)
Authority to assess costs ..... 12-32(d)
Abatement in accordance with state law ..... 12-32(e)
Same – collection of costs ..... 12-33
Open cisterns, basements and other dangerous excavations ..... 12-34
Abandoned refrigerators and other airtight containers ..... 12-35
Outside storage of firewood ..... 12-36
Composting ..... 12-37
Reserved ..... 12-38 – 12-55

**ARTICLE III. WEEDS AND WILD GROWTH**
Definition ..... 12-56
Destruction of noxious weeds required ..... 12-57
Weed commissioner; destruction of weeds by City ..... 12-58
Landscape maintenance ..... 12-59
Purpose ..... 12-59(a)
Managed natural landscaping ..... 12-59(b)
Yard neglect ..... 12-59(c)
Enforcement ..... 12-59(d)
Reserved ..... 12-60 – 12-75

**ARTICLE IV. NOISE**
Definitions ..... 12-76
Applicability of article; administration and enforcement ..... 12-77
Penalty for violation of article; abatement of noise disturbance ..... 12-78
Noise measurement methods ..... 12-79
Disturbing noise generally ..... 12-80
Prohibited acts ..... 12-81
Light motor vehicle noise ..... 12-82
Variances ..... 12-83
Special variance permits ..... 12-83(a)
General ..... 12-83(a)(1)
Special community events ..... 12-83(a)(2)

Procedures ..... 12-83(a)(3)
Issuance ..... 12-83(a)(4)
Extension or modification ..... 12-83(a)(5)
Conditional variances ..... 12-83(b)
Application ..... 12-83(b)(2)
Permit ..... 12-83(b)(3)
Conditions ..... 12-83(b)(4)
Extension and modification ..... 12-83(b)(5)
Appeals ..... 12-83(b)(6)
Sounding locomotive whistle ..... 12-84
Adoption of state law regarding sound-producing devices; impoundment; seizure and forfeiture ..... 12-85
Commercial and industrial construction ..... 12-86
Radio or other electric sound amplification device – prohibited ..... 12-87
Reserved ..... 12-88 – 12-100

**ARTICLE V. ABANDONED PROPERTY**
Disposition generally ..... 12-101
Abandoned vehicles ..... 12-102
Abandonment prohibited ..... 12-102(a)
Impoundment ..... 12-102(b)
Notification of owner ..... 12-102(c)
Disposal of vehicle ..... 12-102(d)
Responsibility for costs of impoundment and disposal ..... 12-102(e)
Notice of sale or disposition ..... 12-102(f)
Reserved ..... 12-103 – 12-120

**ARTICLE VI. ALARM SYSTEMS**
Definitions ..... 12-121
Purpose of article ..... 12-122
Alarm permits ..... 12-123
Duties of the alarm business ..... 12-124
Exceptions to article ..... 12-125
Prohibited devices ..... 12-126
False alarm fee ..... 12-127
Violations and penalties ..... 12-128

**ARTICLE VII. CHRONIC NUISANCE PREMISES**
DIVISION 1. GENERALLY
Findings ..... 12-140
Definitions ..... 12-141
Reserved ..... 12-142 – 12-144
DIVISION 2. PROCEDURE
Procedure ..... 12-145
Penalties and remedies ..... 12-146
Cost recovery ..... 12-146(a)
Suspension of cost recovery ..... 12-146(b)
Forfeiture ..... 12-146(c)
Appeal ..... 12-147
Injunction ..... 12-148
Abatement in accordance with state law ..... 12-149
When nuisance is deemed abated ..... 12-150
Severability ..... 12-151

**Cross reference(s)--**Board of health, §2-76; health officer, §2-261; buildings and building regulations, ch. 4; unsafe buildings, §4-181; housing standards, §4-231; rodent control, §7-66; fire hazards, §6-6; littering in streets, alleys, highways, public parks or other public property, §16-8; declaration of nuisances regarding trees and other vegetation, §21-68.

**State law reference(s)--**Nuisances, W.S.A. §§30.294, 30.03, 31.25, 66.0415, 23.235, 94.38, 125.14, 144.449, 146.125, 146.14, 163.71, 823.01--823.07, 823.10, 844.20 et seq.

## ARTICLE I. IN GENERAL

### Sec. 12-1. Billposting; definitions.

(a) Billposting means affixing, depositing, distributing, posting, placing, painting or tacking of any handbill.

(b) Handbill means any bill, card, sign, circular, flyer, leaflet, pamphlet, paper booklet, poster or any printed or written material which does the following:

(1) Advertises any business, merchandise, product, commodity or thing;

(2) Directs attention to any business, mercantile or commercial establishment or other activity, for the purpose of either directly or indirectly promoting sales; or

(3) Directs attention to or advertises any meeting, theatrical performance, exhibition, entertainment or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

(c) Person means any person, firm, partnership, association, corporation, company or organization of any kind.
(Code 1965, §11.13; Ord 87-97, §1, 10-15-97; Ord 142-09; §1, 8-25-09)

### Sec. 12-2. Billposting prohibited.

(a) No person shall affix any handbill upon any vehicle on public or private property, unless the owner(s) of said property consents.

(b) No person shall post any handbill on any pole including utility poles, telephone poles, lampposts or poles used for an official sign, on the sidewalk, public or private, on any store, business, barn, shop or other building, either private, municipal or public, or on any fence, bridge, wall or other building or structure except the following:

(1) A dwelling under the following conditions:

a. Handbills are securely affixed.

b. Handbills are distributed only during daylight hours.

c. No person shall distribute, deposit or place a handbill upon any dwelling which is temporarily or continuously uninhabited or vacant.

d. No person shall distribute, deposit or place upon any dwelling a handbill without the name, address and phone number of the person causing the handbill to be distributed, deposited or placed.

e. No person shall distribute, deposit or place upon any dwelling a handbill that contains obscene or harmful material as defined by WSA §948.11.

(2) A billboard.

(c) This section shall not apply to notices, warnings or other communications by, or on behalf of, the City.
(Ord 143-09; §1, 8-25-09)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; licenses, permits and business regulations, ch. 9

### Secs. 12-3 – 12-25. Reserved.

## ARTICLE II. PUBLIC NUISANCES GENERALLY*

### Sec. 12-26. Penalty for violation of article.

Any person who shall violate any provision of this article shall be subject to a penalty as provided in §1-16.
(Code 1965, §9.05)

### Sec. 12-27. Public nuisance defined.

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

(1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.

(2) In any way render the public insecure in life or in the use of property.

(3) Greatly offend the public morals or decency.

(4) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water, or other public way or the use of public property.

(Code 1965, §9.02(1))
**Cross reference(s)** – Sanitary facilities required for housing, §4-238. Definitions and rules of construction generally, §1-2.
**State law reference** – Nuisances, W.S.A. §823.01, et seq.

### Sec. 12-28. Public nuisances affecting health.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the provisions of §12-27.

(1) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

(2) Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.

(3) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.

(4) Any pit, hole, excavation, gully, ditch or depression of any nature whatsoever wherein water is accumulated and retained for more than seventy-two (72) hours, except that stormwater conveyance systems or water quality devices installed or maintained by the City; or permitted stormwater control practices installed and maintained on public or private property, are not included.

(5) Privy vaults and garbage cans which are not flytight.

(6) All noxious weeds and other rank growth of vegetation.

(7) All domestic animals running at large.

(8) The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.

(9) Any use of property substances or things within the city emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the city.

(10) Any use of property which causes any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the city.

(Code 1965, §9.02(2); Ord 118-08, §1, 7-8-08)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

### Sec. 12-29. Public nuisances offending morals and decency.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the provisions of §12-27.

(1) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.

(2) All gambling devices and slot machines.

(3) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the City.

(4) Any place or premises within the city where City ordinances or State laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(5) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State or ordinances of the City.

**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.
**State law reference(s)** – Similar provisions W.S.A. §823.09 et seq.

**Sec. 12-30. Public nuisances affecting peace and safety.**

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of §12-27.

(1) All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public so situated or constructed as to endanger the public safety.

(2) All buildings erected, repaired or altered within the fire limits of the city in violation of the provisions of the ordinances of the City relating to materials and manner of construction of buildings and structures within the district.

(3) Any unauthorized sign, signal, marking or device placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal.

(4) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(5) All limbs of trees, hedges, bushes or plantings which project over and less than fourteen (14) feet above any public street, or over and less than ten (10) feet above any public sidewalk, or other public place.

(6) All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.

(7) All use or display of fireworks except as provided by the laws of the State and ordinances of the City.

(8) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

(9) All wires over streets, alleys or public grounds which are strung less than fifteen (15) feet above the surface thereof.

(10) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises greatly annoys or disturbs a neighborhood or any considerable number of persons within the city.

(11) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under streets, alleys, sidewalks or crosswalks, except as permitted by the ordinances of the City, or obstructions which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or which do not conform to the permit.

(12) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.

(13) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk, or use of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

(14) Repeated or continuous violations of the ordinances of the City or laws of the State relating to the storage of flammable liquids.

(15) All snow and ice not removed or sprinkled with a material which accelerates melting or prevents slipping as provided in §16-10.

(16) All junked, disassembled, inoperable or wrecked motor vehicles, or parts thereof, which have been allowed to remain outside of any building upon public or private property for a period in excess of three (3) days, unless in connection with an automotive sales or repair business located in a properly zoned area.

(17) Any construction debris or materials, unsightly

debris, trash, wood, brick, washing machines, refrigerators or junk such as may tend to depreciate property values or be detrimental to the appearance, neatness and cleanliness of the neighborhood, provided that nothing in this subsection shall prohibit reasonable storage of construction materials during the construction of any building or structure.

(18) All motor vehicles allowed to remain outside of a building on private or public land which are not currently licensed or operable.

(Code 1965, §9.02(4), Ord 65-00, §1, 8-19-00; Ord 18-06, §1, 2-21-06; Ord 1-08, §1, 1-8-08)

**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 12-31. Public nuisances prohibited.**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the City.

(Code 1965, §9.01)

**State law reference(s)** – Public nuisances, W.S.A. §146.14, §823.01, et seq.

**Sec. 12-32. Abatement – generally.**

(a) ***Responsibility for enforcement; inspections.*** It shall be the duty of each department head to enforce those provisions of this chapter that come within the jurisdiction of their respective offices, and each department head shall make or cause to be made periodic inspections and inspections upon complaint to ensure such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.

(b) ***Summary abatement.***

(1) ***Order of abatement.*** If the inspecting officer determines that a public nuisance exists within the city and that there is imminent danger to the public health, safety, peace, morals or decency, he may, without notice or hearing, issue an order reciting the existence of a public nuisance constituting imminent danger to the public and requiring immediate action be taken as he deems necessary to abate the nuisance. Notwithstanding any other provisions of this article, the order shall be effective immediately. Any person to whom such order is directed shall comply with the order immediately.

(2) ***Abatement by City.*** Whenever the owner or occupant shall refuse or neglect to remove or abate the condition described in the order, the inspecting officer shall, in his discretion, enter upon the premises and cause the nuisance to be removed or abated and the City shall recover the expenses incurred thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance.

(c) ***Nonsummary abatement by City.***

(1) ***Order to abate nuisance.*** If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety, peace, morals or decency, he shall issue an order reciting the existence of a public nuisance and requiring the owner or occupant of the premises to remove or abate the condition described in the order within the time period specified therein. The order shall be served personally on the owner of the building, as well as the occupant if different from the owner and applicable to the described nuisance, or, at the option of the inspecting officer, the notice may be mailed to the last known address of the person, to be served by certified mail with return receipt. If the owner or the occupant cannot be served, the order may be served by posting it on the main entrance of the premises and by publishing as a Class 3 notice under W.S.A. Chapter 985. The time limit specified in the order runs from the date of service or publication.

(2) ***Abatement by City.*** If the owner or occupant fails or refuses to comply within the time period prescribed, the inspecting officer shall enter upon the premises and cause the nuisance to be removed or abated and the City shall recover the expenses incurred thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance.

(3) ***Remedy from order.*** Any person affected by such order shall, within thirty (30) days of service or publication of the order, apply to the Circuit Court for an order restraining the City and the inspecting officer from entering on the premises and abating or removing the nuisance, or be forever barred. The court shall determine the reasonableness of the order for abatement of the nuisance.

(d) ***Authority to assess costs.*** The cost of the abatement or removal of a nuisance under this section shall be collected from the owner, occupant or person causing, permitting or maintaining the nuisance and, if notice to

abate the nuisance, if applicable, has been given to the owner, such cost shall be assessed against the real estate as a special charge.

(e) ***Abatement in accordance with state law.*** Nothing in this article shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State.
(Code 1965, §9.03; Ord 2-08, §1, 1-8-08)

**Sec. 12-33. Same – collection of costs.**

In addition to any other penalty imposed by this article for the erection, contrivance, creation, continuous or maintenance of a public nuisance, the cost of abatement of a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance and, if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

**Sec. 12-34. Open cisterns, basements and other dangerous excavations.**

No person shall have or permit on any premises owned or occupied by him any open cistern, cesspool, well, unused basement, excavation or other dangerous opening. All such places shall be filled, securely covered or fenced in such a manner as to prevent injury to any person, and any cover shall be of such a design, size and weight that the cover cannot be removed by small children.
(Code 1965, §8.01(6))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 12-35. Abandoned refrigerators and other airtight containers.**

No person shall leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his control, in a place accessible to children, any abandoned, unattended or discharged icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may be not released from the inside, without first removing the door or lid, snap lock or other locking device from the icebox, refrigerator or container.
(Code 1965, §8.01(7))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 12-36. Outside storage of firewood.**

No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of fourteen (14) days from the date of its delivery. Firewood shall be neatly stacked and may not be stacked closer than one (1) foot to any lot line and not higher than five (5) feet from grade, except adjacent to a fence, where firewood can be stacked against the fence, where firewood can be stacked against the fence as high as the fence. All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises. Not more than ten percent (10%) of the side yards and rear yard may be used for storage of firewood at any one time. The definitions of the City Zoning Code apply to this section, except that the word "fence" shall not include a hedge or other vegetation.
(Code 1965, §22.12)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 12-37. Composting.**

(a) ***Purpose and intent***. The purpose of this section is to promote the recycling of yard waste and food scraps through composting, and to establish minimum standards for proper compost maintenance.

(b) ***Exemptions. Composting done by the following parcels is exempt from this section:***

(1) Parcels that are zoned Agriculture or have obtained a Special Use as an Urban Farm, in accordance with Sec. 23-66(h)-(m) of the Zoning Ordinance.

(2) Parcels owned by the City of Appleton or are being used by the City of Appleton for municipal composting purposes.

(c) ***Definitions***.

(1) ***Composting*** shall mean a controlled biological reduction of organic wastes to humus.

(2) ***Compost barrel or barrel*** shall mean a barrel made of metal or plastic, fifty-five (55) gallons or larger, with a minimum of six (6) rows to a maximum of nine (9) rows of one-half (½) inch holes drilled into the barrel for ventilation, with a block or stone pedestal base for water release.

(3) ***Compost bin or bin*** shall mean a bin that is enclosed and free standing, constructed of rot-resistant wood such as cedar, arsenic free treated wood, plastic lumber, metal post and woven wire or hardware cloth. Bins shall be

fastened to the ground to form stability. A bin shall be no at minimum three (3) feet tall and at maximum five (5) feet tall, with a minimum width of three (3) feet and a maximum width of five (5) feet. Yard waste shall mean leaves, grass clippings, garden debris and brush.

(4) ***Compost pit or pit*** shall mean a pit in the ground that is a minimum of two (2) feet deep and a maximum of four (4) feet deep and covered at all times with a minimum of one (1) inch to a maximum of three (3) inches of soil.

(5) ***Compost trench or trench*** shall mean a trench in the ground that is at minimum eighteen (18) inches deep and covered at all times with a minimum of one (1) inch to a maximum of three (3) inches of soil.

(6) ***Food scraps*** shall mean raw fruits and vegetables and other food remains, such as, but not limited to, apples (peels and cores), cabbage, carrots, celery, coffee (grounds and filters), clean egg shells, grapefruit, lettuce, onion peels, orange peels, pears, pineapple, melon rinds, potatoes, pumpkin shells, squash, tea leaves, tomatoes, turnip leaves, etc.

(7) ***Yard waste*** shall mean leaves, grass clippings, garden vegetation and brush.

(d) ***Maintenance***. All compost bins, pits, trenches, and barrels shall be maintained using approved composting structures and procedures to comply with the following requirements:

(1) Yard waste composting: Yard waste shall be composted in bins. Yard waste must be turned every one (1) to two (2) weeks. Yard waste bins may also contain food scrap. Any yard waste bin that is also used to compost food scraps must have a lid with a latching assembly system.

(2) Food scrap composting: Food scraps may be composted in bins, pits, trenches or barrels. Food scraps must be turned or tilled with soil every two (2) to three (3). Barrels and bins must have a lid with a latching assembly system.

(3) Should there be signs or evidence of rodents in or near a compost barrel, bin, pit, or trench, the Health Department must be notified and shall be authorized proceed under Sections 7-67 and 7-68.

(4) Should there be any unpleasant odor from the compost bin, barrel, pit or trench, steps must be taken immediately to abate the odor.

(e) ***Location***.

(1) Compost bins, pits, trenches, and barrels shall be located in the rear yard only.

(2) Compost bins, pits, trenches and barrels shall be at least three (3) feet from the side and rear property line.

(3) Subsections (e)(1) and (e)(2) shall not apply to a compost bin, pits, trenches, and barrels located in a side yard substantially screened from view from the street and from the ground level of the adjacent residences by shrubs and other plantings or by fencing, provided that such plantings or fencing shall at all times exceed the height of the compost bin or pile by no less than one (1) foot.

(f) ***Ingredients***.

(1) No compost bins, pits, trenches, and barrels shall contain any of the following:

a. Lakeweeds;

b. Cooked food scraps, except coffee grounds and tea leaves;

c. Fish, meat or other animal products;

d. Dairy products;

e. Large items that will impede the composting process.

(2) Permitted ingredients in a compost bins, pits, trenches, and barrels shall include:

a. Yard waste;

b. Food Scraps;

c. Commercial compost additives.

(g) ***Owner Responsibility***. Every owner or operator shall be responsible for maintaining all property under his or her control in accordance with the requirements of this section. Compost material generated shall be for private use

only; to be used on the same parcel it was generated. Compost may not be sold.

(h) ***Penalty***. Any person violating this section shall be subject to a forfeiture of not less than ten dollars ($10.00) or more than two hundred dollars ($200.00). Each day such violation continues shall be considered a separate offense.
(Ord 66-15, §1, 9-8-15)

**Secs. 12-38 – 12-55. Reserved.**

## ARTICLE III. WEEDS AND WILD GROWTH*

### Sec. 12-56. Definition.

For purposes of this article, noxious weeds shall mean the weeds defined in W.S.A. §66.0407, which is hereby adopted and made a part of this article, and shall also include common ragweed (Ambrosia atemisiifolia), giant ragweed (Ambrosia trifida) and burdock (Actrium spp.).
(Code 1965, §22.06(2))
**Cross reference(s)** – Definitions and rules of construction generally, §1-2.

### Sec. 12-57. Destruction of noxious weeds required.

Every person shall destroy all noxious weeds on every parcel of land which he owns, occupies or controls.
(Code 1965, §22.06(1))

### Sec. 12-58. Weed Commissioner; destruction of weeds by City.

(a) The Weed Commissioner, who shall be the Inspections Supervisor, shall have the powers and duties enumerated in this article and in W.S.A. §66.0407, except that he shall receive no compensation for his services other than his regular salary.

(b) An administrative fee shall be charged for the inspection of non-compliant properties. All fees shall be on file with the Department of Public Works.

(c) The Weed Commissioner shall destroy or cause to be destroyed noxious weeds, and is further empowered to enter upon public and private lands and to cut or remove the accumulation or growth of weeds, grass, brush or other rank or offensive vegetation which has grown to a height greater than the following heights:

(1) On developed lots, regardless of location in the city, eight (8) inches;

(2) On undeveloped lots, regardless of location in the city, twelve (12) inches.

(d) Developed lot shall be defined as one with a finished building or building under construction.

(e) The administrative fee for multiple adjacent properties or a new subdivision by phase per event shall be no more than five (5) times the fee for a single lot.

(f) Property in the city, but not yet served by City sewer and water or permitted utilities, shall be exempt from the provisions of this section, except for noxious weeds.

(g) Noxious weeds shall be eliminated under this notice and charge provisions of W.S.A. §66.0517. All other weed elimination or vegetation control shall be charged as a special charge for current services rendered under W.S.A. §66.0627, with or without notice to the property owner.
(Code 1965, §22.06(3) – (5); Ord 15-92, §1, 4-1-92; Ord 174-93, §1, 10-19-93; Ord 30-07, §1, 2-27-07; Ord 8-14-, §1, 3-11-14)
***Cross reference(s)** – Sanitary facilities required for housing, §4-238.
**State law reference(s)** – Nuisances, weeds, W.S.A §23.235 through §66.0517.

**Sec. 12-59. Landscape maintenance.**

(a) ***Purpose***. The use of wildflowers and other native plants in a managed landscape design can be economical, low-maintenance and effective in soil and water conservation. However, it is not the intent of this section to allow vegetated areas to be completely unmanaged or overgrown.

Areas that present either a direct health hazard or provide a demonstrated breeding ground for fauna known to create a safety or health hazard will not be permitted. Certain noxious weeds defined in this section are recognized indicators of neglect. The City recognizes the desirability of permitting natural vegetation within the city limits while maintaining public health and safety at the same time.

(b) ***Managed natural landscaping.***

(1) Native and naturalized plants including, but not necessarily limited to, ferns, wildflowers, grasses, shrubs and trees may be grown in a managed landscape design provided said plants were not obtained, or are not growing, in violation of any local, state or federal laws.

(2) Nuisance weeds and noxious weeds are defined by W.S.A. §23.235 and §66.0407, respectively, as amended, and also include those weeds set forth is §12-56. Such weeds are prohibited in all cases and shall be subject to destruction under §12-59 and §12-58.

(3) Natural landscape areas shall be set back a minimum of seven (7) feet from all property lines and driveways unless the property is abutted by a roadway, fence or similar barrier separating it from adjoining residential properties, then the natural landscaping may be planted up to the property line (inside the sidewalk).

(4) Natural landscape areas shall be subject to §6-6 governing fire hazards. Those areas located within residential districts and containing dense plantings of tall grasses (in excess of 8") or similar light weight fuels (as determined by the Fire Department) shall be limited in area to two hundred (200) square feet, separated from other like areas according to the setback requirements in sec. (3) and set back a minimum of seven (7) feet from all structures.

(5) This section shall not apply to properties owned by governmental entities or where federal, state or local regulations provide otherwise.

(c) ***Yard neglect.***

(1) Any front, side or rear yard area of a residence, business, institutional or industrial use, including any area between an installed sidewalk and the street, shall be maintained with a lawn, shrubbery, plantings or other surface treatment consistent with this section.

(2) Rank or unmanaged growth of vegetation identified in state or local codes is not permitted and is declared to be a public nuisance.

(3) Yards, including any area between the installed sidewalk and the curb, with a common stand of turf grass is higher than eight (8) inches is declared to be in a state of neglect and a public nuisance.

(Ord 73-14, §1, 10-12-14)

(d) ***Enforcement.*** Failure to correct a violation of this section may result in weed elimination as defined in §12-58 of this ordinance and penalties as provided in §1-16.
(Ord 11-98, §1, 2-18-98, Ord 13-02, §1, 3-11-02)

**Secs. 12-60 – 12-75. Reserved.**

## ARTICLE IV. NOISE*

### Sec. 12-76. Definitions.

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

***ANSI*** means American National Standards Institute or its successor bodies.

***A-weighted sound level*** means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

***Ambient noise*** means the all encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.

***Background noise level*** means the sound from all sources, with a single source in question removed.

***Commercial area*** means any area of the city designated on the Official Zoning Map C-O, C-1, C-2 or CBD.

***Construction*** means any site preparation, assembly, erection, substantial repair, alteration or similar action, for or of public or private rights-of-way, structures, utilities or similar property.

***Day*** means the hours between 7:00 a.m. and 10:00 p.m. central standard or daylight savings time when in effect.

***Decibel or dB*** means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micronewtons per square meter.

***Demolition*** means any dismantling, intentional destruction, or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

***Emergency*** means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

***Emergency work*** means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

***Fluctuating sound*** means a sound whose sound pressure level varies significantly but does not equal the ambient environmental level more than once during the period of observation.

***Frequency*** means the reciprocal of the primitive period of a function periodic in time. The unit is the cycle per unit time and must be specified; typically this unit will be hertz (hz), i.e., cycles per second.

***Gross vehicle weight rating or GVWR*** means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

***Industrial area*** means any area of the city designated on the Official Zoning Map M-1 or M-2.

***Light motor vehicle*** means any automobile, van, motorcycle, motor-driven cycle, motor scooter or light truck with a gross vehicular weight of less than eight thousand (8,000) pounds.

***Motor vehicle*** means a vehicle which is self-propelled, including, but not limited to, cars, trucks, motorcycles, motorbuses, motorhomes, snowmobiles, truck trailers, and motor bicycles.

***Muffler or sound dissipative device*** means a device for abating the sound of escaping gases of an internal combustion engine.

***Night*** means the hours between 10:00 p.m. and 7:00 a.m., standard time or daylight savings time when in effect.

***Noise*** means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

***Noise disturbance*** means any sound which:

(1) Endangers or injures the safety or health of humans or animals;

(2) Annoys or disturbs a reasonable person of normal sensitivities; or

(3) Endangers or injures personal or real property.

***Public right-of-way*** means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a government entity.

***Public property*** means any real property or structures

thereon which are owned or controlled by a governmental entity, including, but not limited to, parks, streets and alleys.

***Real property boundary*** means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.

***Residential area*** means any area of the city designated on the Official Zoning Map AG, R-1A, R-1B, R-1C, R-2, R-3, P-I and NC.

***Sound*** means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristics of sound, including duration, intensity and frequency.

***Sound level*** means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4 – 1971 or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

***Sound level meter*** means an instrument which includes a microphone, amplifier, output meter, and weighting networks used to measure sound pressure levels.
(Code 1965, §22.09(2); Ord 69-07, §1, 3-27-07)
**Cross reference(s)** – Definitions and rules of construction generally, §1-2. Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.
**State law reference(s)** – Boat noises, W.S.A. §30.62; noises generally, automobiles, W.S.A. §347.38; snowmobiles, W.S.A. §350.10

**Sec. 12-77. Applicability of article; administration and enforcement.**

Noise is a serious hazard to the public health, welfare, safety and quality of life. A substantial body of science and technology exists by which excessive sound may be substantially abated. The people have a right to an environment free from excessive sound that may jeopardize their health, welfare, or safety, or degrade the quality of life. This article shall apply to the control of noise originating within the corporate limits of the city. It is the policy of the city to prevent noise that may jeopardize the health and welfare or safety of its citizens or degrade the quality of life. It shall be the duty of the Health Department or the Police Department to administer and enforce the provisions of this article.

**Sec. 12-78. Penalty for violation of article; abatement of noise disturbance.**

Any person who shall violate any provisions of this article shall be subject to penalty as provided in §1-16. In addition to forfeiture, this article may be enforced by injunction, nuisance abatement or other appropriate legal or equitable action. Noise as defined in this article, together with specific prohibited acts of noise disturbance, are hereby deemed and declared to be a public nuisance subject to nuisance abatement proceedings.
(Code 1965, §22.09(9))

**Sec. 12-79. Noise measurement methods.**

(a) Measurement shall be made at or beyond the property line of the property on which such noise is generated or at or within the property line of the property on which such noise is perceived, as appropriate. Measurement shall be done approximately four (4) feet above the ground and at least three (3) feet from large reflecting surfaces such as building walls.

(b) Measurement of sound shall be made either with a sound level meter that meets or exceeds the ANSI requirements of the American Standard Specification for Sound Level Meters, Type I or Type II (ANSI S1.4 - 1971) or with an Octave Band Analyzer that meets or exceeds the requirements of ANSI S1.6-19600 or any subsequent nationally adopted standards superseding the above standards. In both cases, the instruments should be maintained in calibration and good working order.

(c) When a sound level meter is used, it shall be set to the A-weighting scale and in the FAST response mode. A windscreen shall be mounted on the microphone and the noise limitations shall be the A-scale levels set forth in ***Tables I and II.*** An octave band analyzer may be employed when there is a concentration of sound energy within a limited number of bands, but its use shall not be restricted to such situations. When an octave band analyzer is used, a standard octave band analysis shall be conducted that spans the frequency range set forth in ***Tables I and II.***

**Sec. 12-80. Disturbing noise generally.**

No person shall make or cause to be made any loud, disturbing, fluctuating or unnecessary sounds or noises such as may tend to annoy or disturb a reasonable person.
(Code 1965, §8.02(3); Ord 139-94, §1, 11-16-94)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 12-81. Prohibited acts.**

(a) No person shall operate or cause to be operated on private or public property any source of sound in such a

manner as to create a sound level which exceeds the limits set for the zone categories in Table I, provided however, that when sound is emitted from an industrial zone into a residential zone or commercial zone, or from a commercial zone into a residential zone, the limits set forth in Table II shall apply.

(b) No person shall operate, play, or permit the operation or playing of any radio, television, phonograph, musical instrument, sound amplifier or similar device in such a manner as to create a noise disturbance.

(c) No person shall own, possess or harbor any animal or bird which frequently or for continued duration makes sound which creates a noise disturbance.

(d) No person shall operate or permit the operation of any mechanical power saw, drill, sander, grinder, lawn or garden tool, lawnmower, snow removal equipment or any similar device, necessary for the maintenance of property, in a manner which creates a noise disturbance. Such devices that are kept in good repair and, when new, would not comply with the standards set forth in this article, shall be exempt provided they are reasonably used for property maintenance. No such equipment, except snow removal equipment, shall be operated at night.

(e) No person shall sound or permit the outdoor sounding of any fire alarm, burglar alarm, civil defense alarm, siren, horn, whistle or similar emergency signaling device, except for emergency purposes or for testing. Any testing shall be performed during the day.

(f) No person shall operate any motor vehicle unless such motor vehicle is equipped with an adequate muffler in constant operation and property maintained to prevent excessive or unusual noise. The provisions of W.S.A. §347.39 are hereby adopted by reference and made a part of this section.

(g) No operator shall accelerate a motor vehicle so as to emit an unnecessary noise as a result of the friction caused between the tire and the surface on which the vehicle travels or to cause the tires to throw stones or gravel when in the process of accelerating.
(Code 1965, §8.03(3)(a); §22.09(5))

(h) It shall be unlawful for any vehicle equipped with a compression braking device (jake brakes) to use this device to contain the engine's compression, thus rapidly slowing the engine's revolutions per minute and the vehicle's speed, except in cases of extreme emergency.

(i) ***Exemptions.*** The following activities shall be exempt from the regulations of this section:

(1) The daytime criteria, as set forth in Tables I and II, shall not apply to construction sites, demolition sites, public utilities, and public works projects and operations during daytime hours Monday through Saturday, inclusive; however, the noise production shall be minimized through proper equipment operations and maintenance. Stationary equipment on construction projects lasting more than ten (10) days within residential districts shall be shielded or located to prevent unnecessary noise.

(2) Emergency short term operations which are necessary to protect the public health, safety and welfare of the citizens, including emergency utility and public works operations.

(3) Essential operations and noises required by law relating to the public health, safety and welfare, including, but not limited to, law enforcement, firefighting and rescue and sanitation activities.

(4) When the background noise level is above a noise limitation, a source may add no more than 2 dB to the background level.

(Code 1965, §22.09(3), (7); Ord 171-01, §1, 10-8-01)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; traffic and vehicles, ch. 19

**TABLE I**
**Maximum Permissible Sound Pressure**
(Levels in Decibels re .0002 Microbars)

7:00 A.M. to 10:00 P.M.

| Octave Band Center Frequency (Hz) | Residential | Commercial | Industrial |
|---|---|---|---|
| 31.5 | 70 | 80 | 86 |
| 63 | 69 | 79 | 85 |
| 125 | 64 | 73 | 80 |
| 250 | 58 | 65 | 75 |
| 500 | 52 | 59 | 69 |
| 1000 | 47 | 53 | 63 |
| 2000 | 42 | 47 | 58 |
| 4000 | 38 | 42 | 54 |
| 8000 | 35 | 40 | 51 |
| A-scale levels | 57 dB (A) | 63 dB (A) | 72 dB (A) |

10:00 P.M. to 7:00 A.M.

| Octave Band Center Frequency (Hz) | Residential | Commercial | Industrial |
|---|---|---|---|
| 31.5 | 69 | 72 | 81 |
| 63 | 68 | 71 | 80 |
| 125 | 62 | 66 | 75 |
| 250 | 54 | 60 | 70 |
| 500 | 48 | 54 | 64 |
| 1000 | 42 | 49 | 58 |
| 2000 | 36 | 44 | 53 |
| 4000 | 31 | 40 | 49 |
| 8000 | 29 | 37 | 46 |
| A-scale levels | 52 dB (A) | 58 dB (A) | 67 dB (A) |

**TABLE II**

**Maximum Permissible Sound Pressure**
(Levels in decibels re .0002 Microbars)

7:00 A.M. to 10:00 P.M.

| Octave Band Center Frequency (Hz) | Ind. Into Commercial | Ind. Into Residential | Commercial Into Residential |
|---|---|---|---|
| 31.5 | 80 | 79 | 75 |
| 63 | 79 | 78 | 74 |
| 125 | 74 | 73 | 69 |
| 250 | 69 | 67 | 64 |
| 500 | 63 | 61 | 58 |
| 1000 | 57 | 55 | 52 |
| 2000 | 52 | 50 | 47 |
| 4000 | 48 | 46 | 43 |
| 8000 | 45 | 43 | 40 |
| A-scale levels | 66 dB (A) | 64 dB (A) | 61 dB (A) |

10:00 P.M. to 7:00 A.M.

| Octave Band Center Frequency (Hz) | Ind. Into Commercial | Ind. Into Residential | Commercial Into Residential |
|---|---|---|---|
| 31.5 | 75 | 74 | 72 |
| 63 | 74 | 73 | 71 |
| 125 | 69 | 68 | 65 |
| 250 | 64 | 63 | 57 |
| 500 | 58 | 57 | 51 |
| 1000 | 52 | 51 | 45 |
| 2000 | 47 | 46 | 39 |
| 4000 | 43 | 42 | 34 |
| 8000 | 40 | 39 | 32 |
| A-scale levels | 61 dB(A) | 60 dB (A) | 55 dB (A) |

**Sec. 12-82. Light motor vehicle noise.**

No person shall cause noise levels from the operation of a light motor vehicle and motorcycles in excess of the sound levels set forth in tables III and IV below.

**TABLE III**

**Passby Vehicle Sound Limits**

Weighted and sound level limits for operation on roadways specified at fifty (50) feet from the centerline of the vehicle travel lane:

| | *Automobiles, Vans Light Trucks GVWR* | *On-Highway Motorcycles* |
|---|---|---|
| *Posted Speed Zone* | | |
| Greater than 45 mph | 78 dB | 82 dB |
| 45 mph or less | 72 dB | 78 dB |
| 35 mph or less, level roadways, constant speed cruise, 200 feet or more from intersection | 70 dB | 74 dB |

**TABLE IV**

**Stationary Vehicle Sound Limits**

Weighted sound level limits for stationary vehicles. Vehicle exhaust noise tests measurements at twenty (20) inches from exhaust outlet:

| | |
|---|---|
| Automobile, Vans, Light Trucks, GVWR 8,000 lbs. | 95 dB |
| On-highway motorcycles | 99 dB |

Add 2 dB for rear and mid-engine vehicles.
Tests shall be conducted at an engine test speed of 3,000 RPM or one-half the indicated engine red line.
(Code 1965, §22.09(6))

**Sec. 12-83. Variances.**

The City of Appleton Board of Health, upon final approval by the Common Council, shall have the authority, consistent with this section, to grant variances in accordance with the following provisions.

(a) ***Special Variance Permits.***

(1) ***General***. A special variance permit may be issued upon request provided that the work producing such noise is necessary to promote the public health or welfare and reasonable

steps are taken to keep such noise at the lowest practical level.

(2) ***Special Community Events***. A variance may be issued for special events and similar gatherings, festivals, presentations and the like, which are limited in duration and are generally acceptable to the people of the community provided that precautions are taken to maintain the noises produced at the lowest practical level. The Health Officer, or designee, is authorized to issue a variance pursuant to this section upon receiving a complete application for an event meeting this section's criteria. Applications that are not approved shall, upon timely request of the applicant, be reviewed by the Board of Health at their next regularly scheduled meeting.

(3) ***Procedures***. Any person seeking a special variance permit pursuant to this section shall file an application with the Health Officer, to be submitted to the Board of Health, forty-five (45) days prior to commencement of the event or activity for which the variance permit is requested. The Board of Health, however, may waive the time limit when compliance therewith is impractical. The application must be made in writing and shall contain all the following pertinent information:

a. Dates required.

b. Time and place of operation.

c. Equipment operation involved.

d. Necessity for such permit.

e. Steps to be taken to minimize noise.

f. Name of responsible person who will be present at the operation site while the noise is produced.

(4) ***Issuance***. Upon final approval by the Common Council, a special variance permit shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance permit shall not become effective until all conditions are agreed to by applicant. Noncompliance with any condition of these special variance permits shall terminate the permit and subject the person holding it to compliance with this article.

(5) ***Extension or modification***. Application or extension of time limits specified in special variance permits or for modification of other substantial conditions shall be treated like applications for initial special variances.

(b) ***Conditional Variances.***

(1) It may not be technically or economically feasible for certain commercial or industrial sources of sound to comply with the standards set forth herein. Therefore, the Board of Health may grant variances from this section if it finds that strict compliance is unreasonable because:

a. Conditions are beyond the control of the person requesting such variance.

b. Special circumstances exist which would render strict compliance impractical.

c. Strict compliance would result in substantial curtailment or closing down of a business, plant, operation or the like.

d. Control technology is unavailable or available only at a prohibitive cost.

e. No other alternative facility or method is available.

(2) ***Application***. Application for a variance permit under this subsection shall be made in writing to the Health Officer for submittal to the Board of Health. Such application shall specify the grounds upon which the variance permit is sought and the date by which the source of any excess noise for which the variance is sought shall be brought into compliance with this section. An application for a variance permit shall be considered timely made if filed within thirty (30) days following due notification that it is in violation of this section. The proper filing of an application within such time shall toll all penalties provided in this section for any such violation until a final decision has been issued on the merits of such application. The Board of Health, within a reasonable amount of time, shall give public notice of the receipt of an application for a variance permit.

(3) ***Permit***. Within a reasonable time following receipt of an application for a variance permit and after public notice thereof has been given, the Board shall grant such

permit to an applicant if the Board finds that immediate compliance with the noise limitations as set forth in this section would result in unnecessary hardship to the applicant. In making the determination, the Board of Health shall balance the hardship to the applicant, the community, and other persons of not granting the variance, against the adverse impact on health, safety, and welfare of persons affected, the adverse effect on property affected and any other adverse impacts of granting the variance. Any person who claims to be adversely affected by the allowance of the variance permit may file a statement with the Board of Health containing information to support the claim. The Board of Health may require the applicant to submit information not contained in the application which may be necessary for making a determination under this subsection. Within five (5) days following the determination, the Board of Health shall place on file with the City Clerk a copy of the decision which shall specify the reasons for denying or granting the variance permit.

(4) ***Conditions***. Upon final approval by the Common Council, the Health Officer shall issue a variance permit under such conditions as are necessary to protect the public health, safety, and welfare, including a schedule for achieving compliance with noise limitations. Variances exceeding two (2) years may be granted only in exceptional cases, including those for which, in the opinion of the Board of Health, control technology is unavailable or available only at a prohibitive cost. Non-compliance with any conditions imposed on the variance shall terminate the variance and subject the person holding it to those provisions of this section for which the variance permit was granted.

(5) ***Extension and Modification***. Application for extension of time limits or modification of other conditions specified in the variance permit shall be treated like applications for an initial variance, except that the Board of Health must find that the need for such extension or modification clearly outweighs any adverse impacts of granting the extension or modification.

(6) ***Appeals***. Any applicant or other person aggrieved by the decision of the Board of Health or Common Council may seek such other legal relief as may be available.

(Ord 173-08, §1, 11-25-08)

**Cross reference(s)** – Board of Health, §2-76, et seq.

**Sec. 12-84. Sounding locomotive whistle.**

No railroad company or any of its agents, servants or employees shall blow any whistle on any engine within the limits of the city, except in those cases prescribed and designated by the laws of Wisconsin. This section does not prohibit the blowing of any whistle as a signal warning in cases of peril, fire or collision or other imminent danger.
(Code 1965, §8.02(3); Ord 137-92, §1, 12-16-92, Ord 84-00, §1, 10-7-00)

**Sec. 12-85. Adoption of state law regarding sound-producing devices; impoundment; seizure and forfeiture.**

W.S.A. §66.0411 regarding impoundment, seizure and forfeiture of sound-producing devices in violation of this article is hereby adopted by reference and made an offense punishable as a violation of this code.
(Ord 89-96, §1, 9-18-96)

**Sec. 12-86. Commercial and industrial construction**

New or substantially modified structures on land used or zoned as commercial or industrial shall be subject to site plan review to evaluate compliance with the provisions of this code.

**Sec. 12-87. Radio or other electric sound amplification device – prohibited.**

No person or business may use a radio or other similar electric sound amplification device so that sound emitting from said radio or amplification device is audible under normal conditions from a distance of seventy-five (75) or more feet.
(Ord 84-05, §1, 8-23-05)

**Secs. 12-88 – 12-100. Reserved.**

## ARTICLE V. ABANDONED PROPERTY*

### Sec. 12-101. Disposition generally.

The provisions of W.S.A. §66.0139 are hereby adopted by reference. Except as otherwise provided in this article, all personal property which has been abandoned or remains unclaimed for a period of thirty (30) days, including bicycles or parts thereof, may be disposed of by public sale, private sale, conversion to public use, donation to charity, or disposed of by junking or salvage. The method of disposal shall be at the sole option of the Police Department. If the owner of the property is known, the thirty (30) day period shall commence on the date of mailing of a notice by regular mail to owner's last known address. If ownership is unknown, the thirty (30) day period shall commence on the date the property is taken into possession by the Police Department. Any property remaining unclaimed beyond the thirty (30) day period shall be subject to a storage fee in the amount on file in the Police Department, commencing with the expiration of the thirty (30) day period and continuing until the property is reclaimed or disposed of.
(Code 1965, §10.18(6))

### Sec. 12-102. Abandoned vehicles.

(a) ***Abandonment prohibited.*** No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or public or private property for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. When any such vehicle has been left unattended on any City street or highway or on any public or private property within the City without permission of the owner for more than forty-eight (48) hours, the vehicle is deemed abandoned and constitutes a public nuisance.

(b) ***Impoundment.*** Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of under subsection (d) of this section, except that if the Police Chief determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked by the City prior to expiration of the impoundment period upon determination by the Police Chief or his duly authorized representative that the vehicle is not wanted for evidence or other reason.

(c) ***Notification of owner.*** Any vehicle which is deemed abandoned and not disposed of under subsection (b) shall be retained in storage for a minimum period of ten (10) days after certified mail notice has been sent to the owner and lienholders of record to permit reclamation of the vehicle after payment of accrued charges. Such notice shall set forth the year, make, model and serial number of the abandoned motor vehicle, the place where the vehicle is being held, and shall inform the owner and any lienholders of their right to reclaim the vehicle. The notice shall state that the failure of the owner or lienholders to exercise their rights to reclaim the vehicle under this section shall be deemed a waiver of all right, title, and interest in the vehicle and a consent to the sale of the vehicle.

(d) ***Disposal of vehicle.*** Each retained vehicle not reclaimed by its owner or lienholder may be sold pursuant to W.S.A. §342.40.

(e) ***Responsibility for costs of impoundment and disposal***. The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not covered from the sale of the vehicle may be recovered in a civil action by the City against the owner.

(f) ***Notice of sale or disposition***. Within five (5) days after the sale or disposal of a vehicle as provided in subsection (d) of this section, the Police Chief shall advise the State Department of Transportation, Division of Motor Vehicles, of such sale or disposition, on a form supplied by the division. A copy of such form shall also be given to the purchaser of the vehicle.
(Code 1965, §10.18(1) – (5); Ord 51-92, §1, 5-6-92; Ord 4-93, §1, 1-6-93, Ord 3-05, §1, 1-11-05)
**Cross reference(s)** – Traffic and vehicles, ch. 19
**State law reference(s)** – Abandoned vehicles, W.S.A. §342.40

### Secs. 12-103 – 12-120. Reserved.

## ARTICLE VI. SECURITY ALARM SYSTEMS*

### Sec. 12-121. Definitions.

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

***Alarm business*** means any person, property owner, firm, partnership or corporation who alters, installs, leases, maintains, repairs, replaces or services an alarm system or which causes any of these activities to take place.

***Alarm user*** means any person, property owner, firm, partnership, corporation or governmental entity whose premise has an alarm system.

***Alarm system*** means a device or system that emits, transmits or relays a remote or local audible, visual or electronic signal indicating an alarm condition and intended to or reasonably expected to summon police or fire services. Alarm system does not include an alarm installed on a vehicle.

***Calendar year*** means the twelve- (12-) month period beginning January 1 and ending December 31.

***Central monitoring station*** means a central location where remote detection devices installed at the premise of an alarm user automatically transmits a signal and the central location is manned twenty-four (24) hours a day by trained operators who monitor, receive, record, verify, validate or report the signal.

***Emergency communications center*** means the communications center, which handles the emergency phone calls and radio communications for the Police and Fire Departments.

***Enhanced call verification*** means an attempt by the alarm business or its representative to contact the alarm site, alarm user and/or keyholder by telephone and/or other electronic means, whether or not actual contact with a person is made, to attempt to determine whether an alarm signal is valid before requesting law enforcement to respond to the alarm signal, in an attempt to avoid an unnecessary alarm dispatch request. For purposes of this ordinance, telephone and/or other electronic verification shall require, as a minimum, that a second call be made to a different number if the first attempt fails to reach an alarm user or keyholder who can properly identify themselves, to attempt to determine whether an alarm signal is valid before requesting law enforcement dispatch.

***False alarm*** means any signal, message or other communication transmitted by an alarm system, person or

other device which causes Police or Fire Department response in which it is determined by the City not to be of an existing emergency or unlawful situation.

***Fire Department*** means the City Fire Department, its headquarters and any other location housing publicly-owned equipment serving the Fire Department.

***Keyholder*** means a person or persons who will be responsible for responding to the premise of an alarm activation, who has access to the premise and the alarm system and who has the authority and ability to set or deactivate the system.

***Police Department*** means the City Police Department, its headquarters and any other location housing equipment serving the Police Department.

***Verified response*** means the alarm business or its representative has verified the legitimacy of an alarm at the scene through independent means such as witness verification, live listening devices or live video monitoring.
(Code 1965, §22.10(2); Ord 15-93, §1, 1-21-93; Ord 119-06, §1, 1-1-07)
**Cross reference(s)** – Definitions and rules of construction generally, §1-2. Police Department, §2-346 et seq; buildings and building regulations, ch. 4; licenses, permits and business regulations, ch. 9.

**Sec. 12-122. Purpose of article.**

The purpose of this article is to reduce the number of false alarms by eliminating those which are preventable or avoidable and to establish control of the various types of alarm systems that would require police response at the location of an event reported by a signal which is transmitted by telephone or radio or which is otherwise relayed to the emergency communications center by a signal activated by an automated alarm device, including such devices already in use within the city.
(Code 1965, §22.10(1))

**Sec. 12-123. Alarm permits.**

(a) ***Requirement***. An alarm business shall not alter, install, lease, maintain, repair, replace or service any alarm system in the city of Appleton without first obtaining an alarm permit. An alarm user who uses an alarm system without the assistance of an alarm business must also obtain an alarm permit. If an alarm user who uses an alarm system without the assistance of an alarm business transfers the possession of the premise, the property owner obtaining possession of the property shall obtain an alarm permit or shall contract with a licensed alarm business for services within thirty (30) days of obtaining possession of the property if they continue to use the alarm system. Alarm permits are not required for fire alarms. Alarm permits are not transferable.

(b) ***Application***. An alarm business or alarm user desiring to secure a permit shall make application to the City Clerk and shall furnish all information deemed necessary by the Clerk.

(c) ***Fee and duration***. An alarm permit shall be valid through December 31 of the year of its issuance, unless sooner revoked. The fee for the alarm permit shall be on file with the City Clerk's Office.
(Code 1965, §22.10(4); Ord 119-06, §1, 1-1-07)

**Sec. 12-124. Duties of the alarm business.**

(a) An alarm business shall use enhanced call verification or verified response prior to requesting a response by emergency services. Enhanced call verification or verified response shall not be used for hold-up, duress, panic or fire alarms.

(b) Any alarm equipment installed by an alarm business after the effective date of this ordinance shall meet the ANSI/SIA CP-01 standards.

(c) A central alarm monitoring station used by an alarm business shall meet the Underwriters Laboratory (UL) or Factory Mutual (FM) standards.

(d) An alarm business shall keep current records of client information including, but not limited to, names of alarm users, keyholders, addresses, phone numbers and other contact information to be used for enhanced call verification and keyholder notification. The alarm business shall provide this information to the central monitoring station.

(e) An alarm business shall provide written and oral instructions explaining the proper use and operation of the alarm system to each of its alarm users. In addition, an alarm business shall take reasonable steps to educate all alarm users in order to minimize the number of false alarms.

(f) An alarm business or representative shall be responsible for notifying a keyholder for the premise when a request is made for response by the Police Department.

(g) If an alarm user uses an alarm system without the assistance of an alarm business, the alarm user is subject to the same duties as an alarm business.
(Code 1965, §22.10(3); Ord 119-06, §1, 1-1-07)

**Sec. 12-125. Exceptions to article.**

None of the provisions of this article shall prevent the City from providing special alarm monitoring services as may be required because of medical reasons or communicative disorders.
(Ord 119-06, §1, 1-1-07)

**Sec. 12-126. Prohibited devices.**

No person shall use or cause to permit to be used any telephone or electronic device or attachment that automatically selects a public primary telephone trunk line of the Police Department, Fire Department or emergency communications center and then reproduces any prerecorded message to report any unlawful act, fire or other emergency.
(Ord 119-06, §1, 1-1-07)

**Sec. 12-127. False alarm fee.**

(a) Any fees payable to the City which are delinquent may be assessed against the property involved as a special charge for current service, without notice, pursuant to Wisconsin Statutes Annotated §66.0627.

(b) If the Police Department responds to a false alarm, the alarm user shall pay the City a fee according to the following schedule of fees for any false alarm occurring in a calendar year:

(1) First two (2) false alarms ..... No charge

(2) Third, fourth and fifth false alarms .....$75.00

(3) Sixth, seventh and eighth false alarms ..... .....$150.00

(4) Ninth, tenth, and eleventh false alarms ..... .....$300.00

(5) Twelfth and subsequent false alarms ..... .....$600.00

(c) Discontinuance of response.

(1) If the Police Department is cancelled by the emergency communications center while responding to an alarm, the alarm user may still be assessed a fee for a false alarm.

(2) In cases where the alarm user has twelve (12) or more false alarms within a six- (6-) month period the Police Department may suspend response after the Chief of Police or designee sends written notification to the alarm user. In order to lift the suspension, the alarm user shall submit written confirmation to the Chief of Police or designee that the alarm system has been inspected and repaired, if necessary, and/or additional measures have been taken to reduce the number of false alarms at that location. If the Chief of Police or designee determines that the actions taken are likely to prevent the occurrence of additional false alarms, the Police Department shall lift the suspension.

(d) Exceptions and appeals.

(1) A fee shall not be charged if any of the following apply:

a. The alarm was activated by criminal activity or a legitimate emergency.

b. The alarm was activated after a power outage that lasted more than four (4) hours.

c. The alarm was activated after the premise was damaged by weather conditions.

d. The Fire Department has assessed a fee for a false fire alarm.

e. The Police Department was cancelled prior to arriving at the premise and documentation is provided that enhanced call verification or verified response was properly utilized.

(2) An alarm user may appeal the assessment of a false alarm fee by submitting written documentation to the Police Chief or designee within ten (10) business days after notification of the assessment of a fee. The Chief or designee must inform the alarm user of the decision in writing. If the alarm user further contests the Chief or designee's decision within ten (10) days of receiving the Chief or designee's decision, the alarm user may seek review by the Safety and Licensing Committee by submitting a written notification to the City Clerk's Office.

(Ord 119-06, §1, 1-1-07)

**Sec. 12-128. Violations and penalties.**

Any person, alarm user or alarm business that violates any of the provisions of this section may be subject to a forfeiture of no more than one hundred twenty-five dollars ($125.00) for the first offense and no more than five hundred dollars ($500.00) for the second and subsequent offenses. Each day that a violation occurs shall be considered a

separate offense. (Code 1965, §22.10(5); Ord 148-94, §1, 12-21-94; Ord 119-06, §1, 1-1-07)

## ARTICLE VII. CHRONIC NUISANCE PREMISES.

### DIVISION 1. GENERALLY

**Sec. 12-140. Findings.**

The Appleton Common Council finds that certain premises within the City receive and require more than the general, acceptable level of services from City departments. These premises place an undue and inappropriate burden on City of Appleton taxpayers. Nuisance activity contributes to the general decay of an affected neighborhood and negatively impacts law-abiding residents in these neighborhoods. This ordinance is intended to encourage responsible ownership of such properties such that they do not unduly burden the City's departments or taxpayers. This ordinance provides a progressive enforcement method to use when working with property owners to abate nuisance activities. Therefore, the Common Council determines that the City will charge the owners of such premises with the costs associated with abating nuisance activity at premises where nuisance activities chronically occur. This section is not intended to discourage crime victims or a person in legitimate need of police services from requesting them. This section does not affect a premises owner's duty to comply with the Fair Housing Laws, nor does it affect a premises owner's duty to comply with all other laws governing residential tenancies which are contained in Chapter 704 of the Wisconsin Statutes, Chapter ATCP 134 of the Wisconsin Administrative Code and other parts of this code.

**Sec. 12-141. Definitions.**

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

***Authorized official*** means singularly or collectively, the Police Chief, Fire Chief, Health Officer, Inspections Supervisor or their designee with jurisdiction to enforce the various statutes and ordinances prohibiting nuisance activities.

***Chief of Police*** means the City of Appleton Police Department Chief of Police or designee thereof.

***Chronic nuisance premises*** means a premises that meets any of the following criteria:

(1) A premises which has generated three (3) or more calls for police services that have resulted in enforcement action for nuisance activities on three (3) separate days within a ninety (90) day period or six (6) such calls within a one (1) year

period. This includes enforcement action taken against any person associated with the premises while at or within two hundred feet (200) of the premises for a nuisance activity; or

(2) A premises which has generated three (3) or more corrective orders from a City Inspections Department for nuisance activities from at least three (3) inspections occurring within a one (1) year period; or

(3) A premises for which a court of law has determined that, pursuant to a search warrant request, probable cause exists that manufacture, distribution or delivery of a controlled substance has occurred on or in association with the premises within thirty (30) days prior to the date of the search warrant application; or

(4) Is a premises which has had one (1) enforcement action associated with the premises resulting from the manufacture, delivery or distribution of a controlled substance(s) as defined in Chapter 961 of the Wisconsin Statutes or a premises which is used as a meeting place of a criminal gang, or that is used to facilitate the activities of a criminal gang as defined in s.939.22(9), Wis. Stats.

(5) A premises which has any combination of six (6) or more individual contacts, corrective orders or enforcement actions as described in subsections (1) through (4) above within a one (1) year period.

***Chronic Nuisance Premises Notice (CNP Notice)*** means the notice issued by the Chief of Police, Fire Chief, Health Officer and/or the Inspections Supervisor.

***Enforcement action*** means any of the following: the physical arrest of an individual(s), the issuance of a citation for a law violation and/or referral of charges by the Police or Inspections to the City Attorney or District Attorney for prosecution for nuisance activities.

***Fire Chief*** means the City of Appleton Fire Department Fire Chief or designee thereof.

***Health Officer*** means the director in charge of the City of Appleton Health Department or designee thereof.

***Inspections Supervisor*** means the person who supervises the Department of Public Works Inspections Division employees or designee thereof.

***City Inspections Department or Inspections*** means the Inspections Divisions of the Department of Public Works, Health and Fire Departments.

***Nuisance activities*** may include any of the following activities, behaviors or conduct:

(1) An act of harassment as defined in s. 947.013, Wis. Stats.

(2) Disorderly conduct as defined in §10-9, Appleton Municipal Code (Code) or s. 947.01, Wis. Stats.

(3) Crimes of violence as defined in ch. 940, Wis. Stats.

(4) Resisting or obstructing an officer as prohibited by §10-10, Code or s. 946.41, Wis. Stats.

(5) Indecent conduct as prohibited by §10-19, Code or s. 944.20 Wis. Stats.

(6) Damage to property as prohibited by §10-23, Code or s. 943.01, Wis. Stats.

(7) The production or creation of noises disturbing the peace, as prohibited by §12-80 or §12-87, Code.

(8) Discharge or improper possession of a dangerous weapon as prohibited by §10-2, Code.

(9) Crimes involving illegal possession of firearms as defined in ss. 941.23, 941.26, 941.28, 941.29 and 948.60, Wis. Stats.

(10) Trespass to land as defined in s. 943.13, Wis. Stats. or criminal trespass to dwelling as defined in s. 943.14, Wis. Stats, or unlawful trespass as prohibited in §10-26, Code.

(11) Loitering, obstructing a street or sidewalk, as prohibited by §16-9, Code.

(12) Theft as defined in s. 943.20, Wis. Stats.

(13) Arson as defined in s. 943.02, Wis. Stats.

(14) Depositing rubbish as prohibited by §16-8 or §12-30, Code.

(15) Keeping a place of prostitution as defined in s. 944.34, Wis. Stats.

(16) Prostitution as prohibited by §10-20, Code or s. 944.30, Wis. Stats.

(17) Soliciting prostitutes as prohibited by s. 944.32, Wis. Stats.

(18) Pandering as prohibited by §10-21, Code or s. 944.33, Wis. Stats.

(19) Possessing an open container which contains alcohol beverages or consuming alcohol beverages upon any public street as prohibited by §10-14, Code.

(20) Selling, offering for sale or giving away of any intoxicating liquors or fermented malt beverages without a license as provided in s. 125.04(1), Wis. Stats.

(21) Underage person posses or consume alcoholic beverages as provided in s. 125.07(4)(b), Wis. Stats., 9-51, Code.

(22) Adult providing or selling alcohol to underage person as provided in s. 125.07(1)(a)1., 9-51, Code.

(23) Possession, manufacture, distribution or delivery of a controlled substance or related offenses as defined in ch. 961, Wis. Stats.

(24) Maintaining a drug dwelling as defined in s. 961.42, Wis. Stats.

(25) Illegal gambling as defined in s. 945.02, Wis. Stats.

(26) Owning, keeping or harboring a dangerous animal or prohibited dangerous animal contrary to Chapter 3, Code.

(27) Any other nuisances set forth in Chapter 12, Article II, Code.

(28) Failing to maintain a property resulting in weeds, wild growth and general yard neglect as set forth in Chapter 12, Article III, Code.

(29) Violations of the Fire Prevention and Protection Code, set forth in Chapter 6, Code.

(30) Violations of the Minimum Housing Code, as prohibited by Chapter 4, Code.

***Person*** means any natural person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying or using property in the city of Appleton.

***Person associated with*** means any person who, whenever engaged in a nuisance activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a premises or person present on a premises, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a property, person in charge, or owner of a premises.

***Person in charge*** means any person, in actual or constructive possession of a premises including, but not limited to, an owner or occupant of premises under his or her ownership or control.

***Premises*** means a commercial business, public or private clubhouse, a place of abode, a residence, a house or multiple dwelling unit for one (1) or more persons, including lodging houses, hotels, motels and tourist rooming houses, and associated common areas, yards and parking lots. In the case of multiple dwelling units. "***Premises"***, as used in this section, may consist of any single unit providing complete, independent living facilities for one (1) or more persons, including provisions for living, sleeping, eating, cooking and sanitation.

**Secs. 12-142 – 12-144. Reserved.**

## DIVISION 2. PROCEDURE

### Sec. 12-145. Procedure.

(a) When a premises meets the definition, and is declared a chronic nuisance, the authorized official shall provide written notice of the declaration to the premises owner. A courtesy copy will also be sent to the alderperson of the affected district. The Chronic Nuisance Premises Notice ("CNP Notice") shall be deemed delivered if sent either by first class mail to the premises owner's last known address or delivered in person to the premises owner. If the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's usual place of abode in the presence of some competent member of the family at least 14 years of age, or a competent adult currently residing there and who shall be informed of the contents of the CNP Notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the CNP Notice is sent by first class mail to the last known address of the owner as identified by the records of the City Assessor. The CNP Notice shall contain the following information:

(1) Street address, parcel number or a legal description sufficient to identify the premises.

(2) A concise statement, including a description of the relevant activities supporting the determination that the premises is a chronic nuisance premises.

(3) A statement that the owner shall immediately notify the authorized official of any change in address to ensure receipt of future notices.

(4) A statement that the actual costs of future enforcement may be assessed as a special charge against the premises.

(5) A statement that the owner shall, within ten (10) days of the date the CNP Notice is mailed, contact the authorized official and schedule a meeting with that official to develop a written action plan to abate the nuisance, or notify the official in writing of the intention to appeal.

(6) A statement that the premises owner shall at all times comply with the fair housing requirements contained in Ch. 8, Art. 2 of the Municipal Code when considering any action against a tenant based upon a CNP Notice.

(7) A statement that the premises owner, in addition to actual abatement costs, may be subject to a forfeiture action with a penalty of not less than two hundred dollars ($200) nor more than five thousand dollars ($5,000) for each day a chronic nuisance is allowed to continue.

(8) A statement that if the premises is non-owner occupied, the premises owner shall within ten (10) days of the date the CNP Notice is issued, schedule attendance at a landlord training session offered by the Appleton Police Department and subsequently attend said training on the scheduled date.

(b) (1) In reaching a determination that a premises is a chronic nuisance premises, activities that were reported to the Police or other City departments by the premises owner or on-site premises manager shall not be included as nuisance activities.

(2) Sec. 968.075, Wis. Stats., broadly defines "domestic abuse". Therefore, in reaching a determination that a premises is a chronic nuisance premises, activities that are "domestic abuse" incidents pursuant to s. 968.075, Stats., shall not be included as nuisance activities unless the incidents have been reviewed by the Chief of Police and the Office of the City Attorney and a determination is made that, based upon the specific facts of each incident, the activities should be deemed nuisance activities. In determining whether to include such activities, the Chief of Police and Office of the City Attorney shall consider the strong public policy in favor of domestic victims reporting alleged abuses, and this ordinance shall not operate to discourage such reports.

(3) a. If the owner responds to the CNP Notice with a written action plan to abate the nuisance, the authorized official may accept, reject or work with the owner to modify the action plan. The plan is acceptable if it can reasonably be expected to result in abatement of the nuisance activities described in the CNP Notice within sixty (60) days.

b. Premises owners shall be counseled regarding nuisance abatement methods and strategies and shall be encouraged to submit a comprehensive nuisance abatement action plan that considers alternatives to eviction in situations where eviction is not the sole remedy available to abate the nuisance activity.

c. If the premises owner meets with the authorized official and presents an

acceptable abatement action plan and implements the terms of the action plan, the authorized official will delay further enforcement of this ordinance, including cost recovery.

d. If the premises owner ceases to cooperate with the efforts to abate the nuisance activities, the authorized official may reinstitute enforcement of this ordinance and the premises owner may be sent a Change In Status Letter. This letter will document the authorized official's efforts to contact and/or obtain cooperation of the owner.

e. Failure by the premises owner to respond within ten (10) days as directed in this subdivision shall result in a forfeiture of no less than one thousand dollars ($1,000) plus court costs and fees.

(4) Any premises owner who has been notified by the authorized official that their non-owner occupied premises is a chronic nuisance premise shall within ten (10) days, schedule attendance at a landlord training session offered by the Appleton Police Department and subsequently attend said training on the scheduled date. Failure to attend the approved landlord training shall result in a forfeiture of no less than two hundred fifty dollars ($250) plus court costs and fees.

(c) Whenever the authorized official determines that any of the following have occurred:

(1) A premises owner has failed to respond to the CNP Notice;

(2) Enforcement action for an additional nuisance activity has occurred at a premises for which notice has been issued pursuant to Subsection (a) and this enforcement action has occurred not less than fifteen (15) days after the CNP Notice has been issued; or

(3) An action plan submitted has not been completed;

Then the authorized official may calculate the actual costs of enforcement to abate this and any subsequent nuisance activities and may refer such cost to the City Finance Department so that the cost may be billed to the premises owner. The authorized official shall provide written notice to the premises owner of the decision to refer the cost of enforcement to the City Finance Department. The notice shall contain:

a. The street address or legal description sufficient for identification of the premises.

b. A statement that the authorized official has referred the cost of enforcement to the City Finance Department.

c. Notice of the premises owner's right to appeal pursuant to §12-147.

(d) Each subsequent incident of enforcement action for nuisance activity shall be deemed a separate violation and costs will continue to be assessed until the nuisance is abated.

**Sec. 12-146. Penalties and remedies.**

(a) ***Cost recovery***. The authorized official shall keep an accurate account of the cost of enforcement and shall report it to the City Finance Department. The Finance Director shall establish a reasonable charge for the costs of enforcement of this section and charge any premises owner found to be in violation of this section the costs of enforcement in full or in part. Such costs shall be billed to the premises owner by invoice sent by regular mail and must be paid within thirty (30) days of the date on the invoice. Any unpaid invoice shall be a lien on such premises and may be assessed and collected as a special charge pursuant to s. 66.0627, Wis. Stats. A one hundred dollar ($100) administrative fee shall be added to the cost of enforcement charged to the benefited premises any time the premises is declared a chronic nuisance premises.

(b) ***Suspension of cost recovery***. If after the receipt of a billing notice from the Finance Department, the premises owner develops an acceptable action plan and implements the plan, the authorized official may suspend further enforcement of this ordinance. The premises owner is still responsible for any enforcement costs incurred prior to the premises owner's submitting an action plan, including the administrative fee. If the premises owner ceases to cooperate with the efforts to abate the nuisance activities, the authorized official may reinstitute enforcement of this ordinance after sending the premises owner a Change In Status letter.

(c) ***Forfeiture***. A forfeiture action may be commenced by the City Attorney's Office for each enforcement action for nuisance activity occurring after the premises has been declared a chronic nuisance premises. The forfeiture shall be not less than two hundred dollars ($200) nor more than five thousand dollars ($5,000) for each enforcement action. Each violation and each day a violation continues or

occurs shall constitute a separate offense.

**Sec. 12-147. Appeal.**

Appeal of the determination of the authorized official may be made in writing to the Safety and Licensing Committee. Appeals of the action of the City Finance Department imposing special charges against the premises may be submitted in writing to the Finance Committee. Appeals shall be in writing, filed with the City Clerk no more than ten (10) days after notice is issued to the property owner.
(Ord 70-10, §1, 5-11-10; Ord 125-11, §1, 5-10-11)

**Sec. 12-148. Injunction.**

This section may be enforced by injunction.

**Sec. 12-149. Abatement in accordance with state law.**

Nothing in this section shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the Municipal Code or laws of the state.

**Sec. 12-150. When nuisance is deemed abated.**

The public nuisance created by a chronic nuisance premises shall be deemed abated when no enforcement action to address nuisance activities occurs and there are no Police, Building, Health or Fire inspection cases generated for a period of six (6) consecutive months from the date of compliance with the action plan.

**Sec. 12-151. Severability.**

The provisions of any part of this section are severable. If any provision or subsection hereof or the application thereof to any person or circumstances is held invalid, the other provisions, subsections and applications of such ordinance to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this section that the same would have been adopted had such invalid provisions, if any, not been included herein.
(Ord 2-09, §1, 1-13-09)

*(The next page is 875.)*

# Chapter 13

## Parks and Recreation

Definitions and terms ..... 13-1
Committee rule making authority ..... 13-2
Application to City of Appleton employees ..... 13-3
Activities prohibited without a permit ..... 13-4
Prohibited items and uses ..... 13-5
Park hours ..... 13-6
Fees and charges ..... 13-7
Possession of alcoholic beverages ..... 13-8
Fishing: catch and release ..... 13-9
General regulations ..... 13-10
Penalty ..... 13-11

**Editor's Note:** This chapter was repealed and recreated pursuant to Ordinance 5-14, adopted February 19, 2014, published February 24, 2014 and became effective February 25, 2014.

**Editor's Note:** This chapter was repealed and recreated pursuant to Ordinance 77-16, adopted October 19, 2016, published October 24, 2016 and became effective October 25, 2016.

## ARTICLE I. IN GENERAL

### Sec. 13-1. Definitions and terms.

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

(a) ***Committee*** shall mean the City of Appleton Parks and Recreation Committee or the Utilities Committee, subject to each committee's respective jurisdictions.

(b) ***Director*** shall mean either the Director of the Parks, Recreation and Facilities Management Department or the Director of the Public Works Department, or their respective designee, as their respective jurisdictions apply to the subject matter of this chapter.

(c) ***Excessive, loud or unusual noises*** shall mean use of a radio or other similar amplification device so that sound emitting from said radio or amplification device is audible under normal conditions from a distance of seventy-five (75) or more feet.

(d) ***Park*** shall mean the grounds, trails, buildings, waters and any other property under the jurisdiction of the Parks and Recreation Committee, as well as stormwater management facilities, which are under the jurisdiction of the Utilities Committee.

(e) ***Permit*** shall mean written authorization from the Director for specific uses of parks and Special Use Areas as required.

(f) ***Special Use Areas*** shall include properties and facilities, or portions thereof, under the jurisdiction of the Parks, Recreation and Facilities Management Department or the Department of Public Works that are regulated by contracts or agreements approved by the committee of jurisdiction. Special Use Areas may be exempt from certain regulations set forth in this chapter subject to the terms of the contract or agreement and uses permitted therein as approved by the committee of jurisdiction. Special Use Areas include, but may not be limited to:

(1) Appleton Family Ice Center-Appleton Memorial Park.

(2) Gardens of the Fox Valley-Appleton Memorial Park.

(3) Rowing Club-Telulah Park.

(4) USA Youth, Inc.-USA Youth Sports Complex.

(5) Appleton Yacht Club-Lutz Park.

(6) Privately leased areas of Houdini Plaza.

(g) ***Stormwater management facilities*** shall mean the areas in the City or owned by the City used to carry, manage and/or store stormwater, and includes stormwater detention ponds, drainage corridors and the adjacent landscaping.

(h) ***Trails*** shall mean paved routes, and five (5) feet on either side of the paved routes, that are designated as trails by the Parks, Recreation and Facilities Management Department and designed and intended specifically for non-motorized public travel, except as provided for in Sec. 13-10, through city-owned and/or managed areas, through property that is designated and operated as a public park for general recreational use, and/or through private property that is maintained by the property owner by agreement with the City.
(Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-25-16)

### Sec. 13-2. Committee rule making authority.

The Committee is authorized to adopt additional or revised rules for the conducting of activities within the parks and Special Use Areas. Any violation of the rules adopted by the Committee shall be incorporated herein and considered a violation of this chapter.
(Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-25-16)

### Sec. 13-3. Application to City of Appleton employees.

The prohibitions and limitations contained in this chapter shall not apply to City employees or agents when performed as part of their duties.
(Ord 77-16, §1, 10-25-16)

### Sec. 13-4. Activities prohibited without a permit.

The following activities are prohibited in parks and in Special Use Areas without a permit. The denial of a permit may be appealed to the committee of jurisdiction. Other permits or permissions may also be required.

(a) Exclusive use or use beyond casual play.

(b) Public meetings, assemblies, entertainment, tournaments or speeches.

(c) Selling or offering for sale any tangible or intangible item, or offering services that require payment for participation, or soliciting for any trade, occupation, business or profession, except at stormwater management facilities where such activities are strictly prohibited.

(d) Taking off or landing of aircraft, including, but not limited to, hot air balloons, helicopters and the like, or dropping parachutists or any other object from the sky.

(e) Camping overnight, except at stormwater management facilities where the activity is strictly prohibited.

(f) Use during times when the area is otherwise closed to the public.

(g) Use of any sound amplification device, sound truck, loudspeaker or other device that produces excessive, loud or unusual noises.

(h) Launching of any watercraft or motorized vehicle, or parking in any area designated for parking, in any area where the Committee has established a fee for such act.

(i) Fireworks displays, conditioned upon prior issuance of a permit pursuant to Sec. 10-5.

(j) Hunting, feeding, trapping or disturbing birds or any wildlife, training animals for hunting purposes, releasing any animals or fish. Proper licensing or approval by the Department of Natural Resources may also be required.

(k) Possession of any glass container.

(l) Removing any object of archeological interest including any man-made article or implement originating from earlier cultures.

(m) Operating any solid or liquid fuel powered model, toy, or device including, but not limited to, powered devices operated by remote control.

(n) Bring in any animal not otherwise permitted under this chapter.

(o) Fires, except:

(1) Cooking fires contained to City provided grills or commercially produced barbeque grills or kettles, and

(2) At stormwater management facilities where fires are strictly prohibited.

(p) Hanging, suspending or placing any object on a tree including rope, cord, webbing or other material, or engaging in an activity that requires hanging or suspending an object or a person from a tree, except at stormwater management facilities where such activities are strictly prohibited.

(q) Skateboarding, except:

(1) At Telulah Park skateboard park and on trails, where no permit is required, and

(2) At stormwater management facilities where the activity is strictly prohibited.

(r) Bathing or swimming, including in fountains, except:

(1) In City-operated swimming pools or other areas posted for such use, where no permit is required, and

(2) At stormwater management facilities where the activities are strictly prohibited.

(s) Planting any turf, trees, shrubs, flowers or other vegetation, and digging, mowing, trimming, removing or otherwise altering or destroying any turf, trees, shrubs, flowers or other vegetation.
(Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-25-16)

**Sec 13-5. Prohibited items and uses.**

In addition to otherwise illegal activities, the following shall be prohibited within the boundaries of any park and Special Use Area:

(a) Unless otherwise permitted by law, possession of any firearm, air gun, spring gun and the like or weapon of any kind except for archery as part of an authorized recreation program or at the archery range in Appleton Memorial Park.

(b) Operation of snowmobiles.

(c) Washing vehicles or pets.

(d) Removal of or harming any wildlife.

(e) Defacing, destroying or vandalizing any structure, sign, equipment or other City property.

(f) Operating or parking any motorized vehicle or device during closed hours.

(g) Littering.

(h) Bringing in trash to dispose of and disposing of trash not relating to normal use.

(i) Being abusive, boisterous or disorderly.

(j) Engaging in an activity for which a permit is required without first obtaining a permit.

(k) Failure to obtain and visibly display in or on the accompanying vehicle from which a watercraft is launched, in such locations on or in the vehicle as are directed by the Parks and Recreation Committee, a required permit for the launching of any watercraft.

(l) Affixing or setting upon any sign, notice, solicitation, literature, exhibit, display, flyer or pamphlet of whatever nature or to any tree, shrub, post, barrel, building or any other plant or structure.

(1) This subsection shall not be construed to prohibit distribution of literature by means of direct personal contact between distributor and recipient to the extent otherwise permitted by law, nor shall it prohibit the posting of signs and notices, in accordance with park rules, in connection with any permitted activity which is taking place in the location in which the sign or notice is erected or posted.

(m) Hitting any golf ball except as permitted at Reid Golf Course.

(n) Dogs, unless the dog is on a trail and restrained by a chain, rope or other type of leash no more than eight (8) feet in length and an individual competent to govern and physically control and restrain the dog is in physical control of the leash at all times.
(Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-25-16)

**Sec. 13-6. Park hours.**

(a) Unless otherwise specified, parks, with the exception of trails, and Special Use Areas shall be open to the public from 5:00 a.m. to 11:00 p.m.

(b) Unless otherwise specified, trails shall be open 24 hours a day, 7 days a week.

(c) Persons launching or transporting a watercraft from park property may do so only within the park hours.

(d) The Director shall have full authority to open and close any park, Special Use Area, or any part thereof, because of season, condition, construction, or when in the interest of public safety if it is deemed necessary by the Director.
(Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-25-16)

**Sec. 13-7. Fees and charges.**

(a) The Committee of jurisdiction shall have the authority to establish such fees as are deemed necessary for use of any park or Special Use Area or any portion thereof, and for the reservation of the park or Special Use Area or any portion thereof.

(b) Fee schedules shall be available upon request from the Parks, Recreation and Facilities Management Department.

(c) It shall be unlawful to use an area of a park or Special Use Area where a fee is required without first paying the fee.
(Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-25-16)

**Sec. 13-8. Possession of alcoholic beverages.**

(a) No alcoholic beverages, other than fermented malt beverages and wine, are allowed in any park.

(b) No person shall drink from or possess an open container of permitted alcoholic beverage in any park before 10:00 a.m. or after 10:00 p.m.

(1) Time limitations in this section shall be extended in the posted areas of Appleton Memorial Park while organized league or tournament play is in progress.

(2) Time limitations in this section shall be extended to 9:00 a.m. at Reid Golf Course.

(c) No person shall drink from or possess an open container of permitted alcoholic beverage in any park other than Reid Golf Course without having a permit issued by the Appleton Police Department unless otherwise allowable by City Code or Policy.

(1) Permits shall be issued by the Appleton Police Department 24 hours a day, seven (7) days a week.

(2) Permits shall be valid for up to one year, with all permits expiring on March 1st annually.

(3) A person may use their permit for a group so long as the permit holder remains at the park with the permit the entire time there is any drinking from or possession of open containers of permitted alcoholic beverages.

(4) Permits shall only be issued to adults, 21 years old or older, and a Terms and Conditions Agreement must be agreed to and

signed by the applicant when the application is submitted.

(5) A permit application may be denied if the applicant has a verifiable history of code violations or criminal conduct relating to disorderly conduct, criminal damage to city property, or any other violation directly related to misuse of city parks or property. A decision to deny a permit may be appealed to the appropriate committee of jurisdiction.

(d) No alcoholic beverages of any kind may be carried into any area of Reid Golf Course at any time unless the alcoholic beverage was purchased at or provided by or on behalf of Reid Golf Course.

(e) A person violating this section and/or a permit holder who violates the Terms and Responsibility Agreement of the permit application may be subject to a forfeiture pursuant to Sec. 1-16 and Sec. 13-11 et. seq., and future permit requests may be denied.
(Code 1965, 13-03(3); Ord 83-98, §1, 8-20-98; Ord 52-02, §1, 4-23-02; Ord 121-07, §1, 8-7-07 (renumbered from 13-78): Ord 154-10, §1, 10-26-10; Ord 5-14, §1, 2-25-14, Ord 11-15, §1, 3-10-15; Ord 99-15, §1, 11-24-15, Ord 77-16, §1, 10-25-16 (renumbered from Sec.13-7))

**Sec. 13-9. Fishing: catch and release.**

Fishing in Appleton Memorial Park Pond and stormwater detention ponds is permitted but subject to certain limitations.

(a) Appleton Memorial Park Pond. Fishing is permitted during regular park hours, except when such waters are being used for City-sponsored activities, and is subject to Wisconsin Department of Natural Resources regulations for urban fishing waters. The pond has a year round season with no length limits, except only juveniles 15 years of age or younger and disabled anglers pursuant to Wisconsin Stat. s. 29.193(3)(a), (b) or (c), may fish from the second Saturday in March to, but not including, the last Saturday in April. There is a bag limit of three (3) trout, one (1) gamefish (largemouth bass, smallmouth bass, walleye, sauger or northern pike), and ten (10) panfish (bluegill, crappie, pumpkinseed, yellow perch and bullhead).

(b) Stormwater Detention Ponds. These ponds are considered "catch and release" ponds; therefore, all caught fish must be immediately returned to the pond. Regular fishing line and barb-free hooks must be used at all times. Fishing is permitted in these ponds from 5:00 a.m. to 11:00 p.m., except when such waters are being used for City-sponsored activities, subject to Wisconsin Department of Natural Resources regulations and licensing requirements.
(Ord 83-02, §1, 6-1-02; Ord 121-07, §1, 8-7-07 (renumbered from Sec. 13-88); Ord 41-12, §1, 5-16-12; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-28-16 (renumbered from 13-8))

**Sec. 13-10. General regulations.**

(a) Motor-driven vehicles and devices are restricted to designated roadways and parking areas in parks and Special Use Areas and are prohibited on trails and any other area, except for motor-driven vehicles and devices that are used by a physically disabled person as defined under s. 346.503(1), Wis. Stat., and in compliance with Title II and III of the Americans with Disabilities Act, or with prior written permission from the Director.

(b) The speed of motor-driven vehicles and devices shall be limited to a maximum of fifteen (15) miles per hour unless otherwise posted. Operating speeds shall be speeds that are reasonable, safe and prudent so as not to interfere with the safety of park users.

(c) It shall be unlawful to park, stop or leave standing any motor-driven vehicles or devices within any park between the hours of 11:00 p.m. and 5:00 a.m., unless otherwise posted and unless such motor vehicle is registered for overnight parking with the Director.

(d) Except for a motor vehicle used by a physically disabled person as defined under s. 346.503(1), Wis. Stats., no persons may park, stop or leave standing any vehicle, whether attended or unattended and whether temporarily or otherwise, upon any portion of any park or Special Use Area reserved by official traffic signs indication the restriction, for vehicles displaying special registration plates under s. 341.14(10), (1a), (1e), (1m), or (1r), Wis. Stat., or a special identification card issued under s. 343.51, Wis. Stats., or vehicles registered in another jurisdiction and displaying a registration plate, card or emblem issued by the other jurisdiction which designates the vehicle as a vehicle used by a physically disabled person.

(e) No person shall interfere in any manner with any City employee or agent in the performance of his or her assigned duties.
(Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-25-16)

**Sec. 13-11. Penalty.**

A person who violates any section of this chapter may be penalized pursuant to Sec. 1-16, and may also be evicted from parks and Special Use Areas pursuant to Sec. 10-26.

(a) At the time of eviction, or as soon as reasonably practical thereafter, the person evicted shall be provided an eviction notice from the Director or the Appleton Police

Department. The eviction notice shall specify the duration of the eviction and the area(s) of eviction.

(b) A person evicted may appeal the eviction by contacting the Director in writing within twenty-one (21) calendar days of the date of eviction and providing the Director with the reason for the appeal. The Director shall respond in writing to the appeal within twenty-one (21) calendar days with a decision. If the person is not satisfied with the Director's decision, he or she may appeal to the committee of jurisdiction by requesting to be heard at the next committee meeting where the members of the committee will have a reasonable amount of time to review the matter prior to the meeting date. The decision of the committee shall be final.

(c) Any person evicted for more than two (2) consecutive calendar years may appeal the eviction once each calendar year by following the procedure in Sec. 13-11(b).
(Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-25-16)

*(The next page is 991.)*

# Chapter 15

## Solid Waste and Recycling

**ARTICLE I. IN GENERAL**
Reserved ..... 15-1 – 15-25

**ARTICLE II. STORAGE AND COLLECTION**
Definitions ..... 15-26
Authority to establish additional rules and regulations ..... 15-27
Containers ..... 15-28
Storage generally ..... 15-29
Preparation of solid waste and recyclables ..... 15-30
Placement for collection ..... 15-31
Scavenging of solid waste or recyclables placed for collection ..... 15-32
Collection service ..... 15-33
Residences ..... 15-33(a)
Commercial establishments ..... 15-33(b)
Industrial waste ..... 15-33(c)
Yard waste ..... 15-33(d)
Brush ..... 15-33(e)
Bulky overflow ..... 15-33(f)
Grass clippings ..... 15-33(g)
Toxic and hazardous waste ..... 15-33(h)
Small dead animals ..... 15-33(i)
Nauseous or offensive waste ..... 15-33(j)
Construction debris ..... 15-33(k)
Disposal of infectious material ..... 15-33(l)
Hazardous and/or toxic waste ..... 15-33(m)
Leaves ..... 15-33(n)
Lead acid batteries ..... 15-33(o)
Eligible electronic devices ..... 15-33(p)
Fees ..... 15-34
Penalty ..... 15-35

**ARTICLE III. RATES AND CHARGES**
Definitions ..... 15-36
Imposed ..... 15-37
Basis ..... 15-38
Rates ..... 15-39
Collection ..... 13-40
Lien for delinquent charges ..... 15-41

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***Cross reference(s)--**Public works department, §2-366 et seq.; refuse disposal in parks and recreation areas, §13-80.
**State law reference(s)--**Solid waste, W.S.A. §289.01 et seq.; solid waste reduction, recovery and recycling, W.S.A. §287.01 et seq.

## ARTICLE I. IN GENERAL

**Secs. 15-1 – 15-25. Reserved.**

## ARTICLE II. STORAGE AND COLLECTION*

**Sec. 15-26. Definitions.**

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

***Approved*** shall mean approved by the Director of Public Works unless specifically stated otherwise.

***Bundle*** shall mean to securely tie with string or twine.

***City*** shall mean the City of Appleton.

***Collecting and transporting service*** means a municipal or privately operated agency, business or service for the collecting or transporting of solid waste for disposal or recycling purposes.

***Composting*** means the process of decaying organic matter, such as leaves, garden debris, grass clippings, raw kitchen scraps and other vegetative materials capable of natural decomposition.

***County*** shall mean Outagamie County unless specifically stated otherwise.

***Department*** shall mean the Department of Public Works.

***Disposable bag*** means a one-way disposable bag made of polyethylene, or other plastic material consisting of a minimum of one and one-half (1½) mils thickness. Bags shall not exceed a volume capacity of thirty (30) gallons. Whenever the term "disposable bag" or "bag" is used in this chapter, such words will mean disposal bag as herein described.

***Dwelling unit*** shall mean any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking or eating of meals.

***Eligible Electronic Devices*** shall include the following:

(1) ***Consumer computers.*** High-speed data processing devices for performing logical, arithmetic, or storage functions that are marketed by the manufacturer for use by households or schools. Computers include traditional, desktop-style computers with a separate monitor and tower or box, laptop/notebook/netbook computers (any of these with a screen at least 7" in the longest

diagonal direction are also video display devices); and servers used by a household or covered school. Consumer computer does **not** include an automated typewriter or typesetter; or a portable hand-held calculator or device, such as a mobile phone or PDA.

(2) ***Consumer printers***. One of the following that is marketed by the manufacturer for use by households or schools: a desktop printer, including inkjet and laser printers that can be placed on a work surface; or a device that prints and has other functions, such as copying, scanning, or sending facsimiles, and that is designed to be placed on a work surface. Consumer printer does **not** include a calculator with printing capabilities or a label maker.

(3) ***Consumer video display devices.*** Televisions or computer monitors with a tube or screen that is at least 7 inches in its longest diagonal measurement and that are marketed by the manufacturer for use by households or schools.

Computer monitor means an electronic device that is a cathode ray tube or flat panel display primarily intended to display information from a consumer computer or the Internet. Computer monitors include: CRT or flat-panel monitors used with a desktop computer; "all-in-one" desktop-style computers where the screen is integrated with the processor; laptop/notebook/netbook computers; and e-readers or other portable devices with screens of at least 7 inches in the longest diagonal direction that display information from the Internet or a processor.

Television means an electronic device, with a cathode ray tube or flat panel display, primarily intended to receive video programming via broadcast, cable, or satellite transmission or to receive video images from surveillance or similar cameras. All types of televisions with a screen of at least 7 inches in the longest diagonal direction including older box-style, CRT models; LCD displays; LED/OLED displays; plasma and rear projection.

The following are **not** considered consumer video display devices under the law: a television or computer monitor that is part of a motor vehicle and that is incorporated into the motor vehicle by, or for, a motor vehicle manufacturer or a franchised motor vehicle dealer (i.e., a computer monitor or television that was built into the vehicle before it was purchased); a television or computer monitor contained within a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, conventional oven or stove, dishwasher, room air conditioner, dehumidifier, or air purifier; any video display device that is not marketed for use by households or schools (such as displays in equipment only used in specific industrial/commercial settings); digital photo frames; or portable DVD players

(4) ***Computer peripherals.*** Keyboards or any other devices, other than a consumer printer, that are sold exclusively for external use with a consumer computer and that provide input into or output from a consumer computer, including, for example: external CD/DVD drives; external hard drives/backup drives; external modems; flash drives/memory sticks for use with computers; game controllers (joysticks, etc.) used with a computer; keyboards; mice; projectors (LCD, LED, etc.) used with a consumer computer; scanners; speakers used with a computer; and webcams or similar cameras specifically for a computer.

(5) ***Fax Machines.***

(6) ***DVD players.***

(7) ***VCRs.***

(8) ***Digital video players/recorders.***

(9) ***Telephones with video displays***. Cellular/mobile phones, including multifunction phones such as iPhones or BlackBerries. The following are **not** considered telephones with video displays under WDNR regulations: corded or cordless phones (phones that plug in to a phone jack in the wall).

***Litter*** shall include any waste or other things, substances or materials such as garbage, rubbish, used tires, manure, stones, gravel, sand, earth, grass, hay, leaves, twigs, shrubs, branches, ashes, cinders, sawdust, sweepings, dirt, glass, earthenware, wire, nails, construction waste, liquid waste, ice, snow, paper and all other debris and discarded materials of similar nature.

***Overflow refuse*** means refuse placed for collection in a disposable bag not placed inside a polycart or mechanically dumped container.

***Person*** shall have the definition set forth in Appleton Municipal Code §1-2.

***Polycart*** means a plastic container issued by the City of Appleton for the storage and collection of solid waste or recyclables.

***Premises*** shall mean platted lot or part thereof or unplatted lot or parcel of land or plot of land, either occupied or unoccupied by any dwelling or nondwelling structure. Premises include the following categories:

(1) ***Single-family premises***. Any housing building containing a single-family dwelling unit. For the purposes of this chapter, any housing building with less then five (5) dwelling units shall fall in this category. Each unit shall be regarded as a single-family dwelling unit.

(2) ***Multi-family premises***. All housing buildings having five (5) or more dwelling units.

(3) ***Commercial or business premises.*** Any public or private place, building and/or enterprise devoted in whole or in part to a business enterprise whether non-profit or profit making in nature.

(4) ***Institutional premises***. Any institutional enterprise, including, but not limited to, hospitals, churches, schools, nursing homes, motels and homes for the aging.

***Recyclables*** means all materials designated by the Director of Public Works for inclusion in the City recycling program.

***Salvageable materials*** shall mean discarded material no longer of value as intended, but which is stored or retained from salvage, sale or future reuse.

***Solid wastes*** shall be as defined in §289.01(33), Wisconsin Statutes; it includes the following categories:

(1) ***Brush*** means trimmings from shrubs and trees, tree limbs less than six (6) inches in diameter and stalks from garden plants. Brush does not include stumps, root balls or logs greater than six (6) inches in diameter.

(2) ***Bulky wastes*** shall mean discarded articles of such dimension as are not normally collected with domestic waste including, but not limited to, items of applicant, furniture, plumbing fixtures, windows and doors, but would be considered domestic wastes. In general, bulky wastes are those wastes too large to be placed in a disposable bag or polycart.

(3) ***Commercial wastes*** shall mean wastes resulting from the operation of business enterprises including, but not limited to offices, stores, restaurants and similar businesses.

(4) ***Construction and/or demolition waste*** shall mean waste resulting from building construction, demolition, alteration, repair or remodeling, including excavated material and waste such as concrete, stone, asphalt, sold, earth, dirt and brick.

(5) ***Domestic waste*** shall mean garbage, refuse, ashes and other waste including, but not limited to metal, glass, paper, wood, rags, plastic, rubber, cloth, cans, bottles, litter, and small quantities of construction and/or demolition wastes, and limited nauseous and/or offensive wastes, with the understanding that these wastes resulting from human habitation and the usual routine of housekeeping of residential units or incidental to its operation. Domestic waste does not include grass clippings, leaves, tree waste, or yard waste.

(6) ***Garbage*** shall be as defined in §289.01(9), Wisconsin Statutes.

(7) ***Grass clippings*** means the product of ordinary mowing and maintenance of lawns during the growing season.

(8) ***Hazardous waste*** shall be as defined in Wisconsin Administrative Code NR 605.04.

(9) ***Industrial waste*** shall be as defined in Wisconsin Statutes §281.01(5).

(10) ***Liquid waste*** shall include drain oil, dirty or waste grease, paints, lacquers, varnishes, thinners, cleaning agents or solvents and other similar waste materials.

(11) ***Nauseous or offensive materials*** are those which are unwholesome in nature or have an unpleasant smell or are otherwise nauseous or offensive, such as manure, filth, carcasses, meat, fish, entrails, hides and hide scrapings, paint, kerosene, oily or greasy substances and also object that may cause injury to any person or animal, or damage to vehicle tires such as nails, tacks, pieces of metal, wire, briar thorns, broken glass and other similar materials or substances.

(12) ***Refuse*** shall mean miscellaneous combustible and noncombustible waste material resulting from housekeeping activities including, not limited to, ashes, glass, metals, rubber, street wastes, wood, cloth and litter.

(13) ***Tree waste*** shall mean waste resulting from the care of trees, shrubs and brushes by pruning and/or wind and storm damage and/or trimming

including branches, limbs, trunks and stumps.

(14) ***Vehicle waste*** shall mean waste resulting from discarded items of a vehicle, including but not limited to, tires, mufflers, exhaust pipes, engine parts, and could include whole vehicles.

(15) ***Yard waste less than one inch in diameter*** means all materials originating in the yard and garden which are capable of natural decomposition, exclusive of grass clippings.

***Special collection tag*** shall mean a tag issued by the Department of Public Works for the collection of tires, appliances, overflow refuse or other materials specified by the Director.
(Ord 54-94, §1, 4-20-94; Ord 149-09, §1, 10-13-09; Ord 150-10, §1, 10-12-10; Ord 21-14, §1, 5-13-14)

**Sec. 15-27. Authority to establish additional rules and regulations.**

The Director of Public Works is authorized to establish and enforce such rules and regulations deemed necessary for refuse collection and storage.
(Ord 54-94, §1, 4-20-94)

**Sec. 15-28. Containers.**

(a) Owners of a single-family premise shall be provided polycarts by the City for each premise. One polycart shall be for solid waste storage and the other shall be designated solely for the collection of recyclables. Only polycarts and bags marked with a special collection tag are permitted containers for solid waste collection for single-family residences. Recyclables shall only be disposed of in the designated polycart.

(b) Owners of multiple-family premises shall provide and maintain suitable containers having sufficient capacity to store a normal one- (1-) week accumulation or collection of garbage, refuse and recycling of all units.

(c) All containers used for the collection of solid waste material or recyclables shall be structurally sound and specifically designed for the storage of solid waste or recycling material. They shall be durable, rust resistant, nonabsorbent, watertight and easily cleaned. Containers shall be made of metal, plastic or other suitable material, have adequate handles or bails to facilitate handing. Containers used for solid waste and recycling storage or collection must have properly fitting covers unless specifically authorized by the Director of Public Works.

(d) One-way disposable bags made of polyethylene (minimum one and one-half (1½) mil)) properly secured, are acceptable containers for overflow refuse only when marked with a special collection tag.

(e) Garbage and refuse stored outside or on top of such containers will not be collected unless placed in a disposable bag and marked with a special collection tag. Bulky items such as furniture and carpets are exempted.

(f) Any container used for collection of solid waste or recyclable material shall be maintained in a clean, sanitary and structurally sound manner so as to prevent the creation of a nuisance or menace to public health and safety.

(g) The use of dumpsters for the storage or disposal of solid waste or recyclables for one-(1-) or two-(2-) family residences is prohibited; except for the temporary use of a dumpster in conjunction with an active building or razing permit, or the use of a dumpster for a period not to exceed fourteen (14) days and the household waste only.

(h) Any container deemed defective by the Director of Public Works may be removed as refuse by the City following notification to the occupant.

(i) Other types of containers conforming to the intent of this section and approved by the Director of Public Works may be used.
(Ord 54-94, §1, 4-20-94, Ord 165-02, §1, 8-27-02; Ord 3-09, §1, 1-13-09; Ord 22-14, §1, 5-13-14)

**Sec. 15-29. Storage generally.**

(a) The owner or occupant of any premises shall be responsible for the sanitary storage of all solid waste generated on those premises.

(b) Solid waste shall be stored in containers manufactured for the storage and handling as described in §15-28. Any other container shall be used only after approval by the Department of Public Works.

(c) Toxic or hazardous wastes shall be stored in safe locations and in separate, closed containers in accordance with applicable state and federal regulations. Said containers shall be identified in accordance with state and federal labeling requirements.

(d) Nuisance abatement. Where a nuisance is found to exist due to insufficient containers, the nuisance shall be abated pursuant to Chapter 12 of the Appleton Municipal Code.

(e) Enclosures. Premises other than single-family may be required by the Director of Public Works to construct an enclosure to visually and physically screen their solid waste storage area where said area can be seen from a single-family premise.

(f) Improperly stored solid waste shall be considered to be litter.
(Ord 54-94, §1, 4-20-94)

**Sec. 15-30. Preparation of solid waste and recyclables.**

(a) Domestic solid waste may be mixed and placed in a common container.

(b) Domestic waste shall be drained of all free liquid, then wrapped, packaged and/or bundled.

(c) Commercial waste must be drained and stored in approved containers.

(d) Brush must be cut into four- (4-) foot lengths and tied in bundles. Bundles shall be no larger than two (2) feet in diameter and weigh no more than forty-five (45) pounds.

(e) Wooden boxes and lumber. Material such as wooden boxes and lumber shall be broken up so it can be reasonably handled and located by one (1) person into the collection truck. Lumber shall be cut into four- (4-) foot lengths. Exposed nails shall be removed.

(f) Cardboard boxes shall be broken down and placed inside the recycling polycart for collection. All loose material shall be placed in similar boxes or containers, with cumulative weight not to exceed forty-five (45) pounds.

(g) Ashes shall be thoroughly cooled before being placed for collection.

(h) All refuse shall be free of jagged or sharp edges, protruding nails, broken glass, protruding screws and any other hazardous condition.

(i) Overflow refuse (tires, appliances and other solid waste designated by the City) must be marked with a special collection tag.

(j) Recyclables must be cleaned and placed in a recycling container. Paper does not need to be separated from other recyclables.

(k) Grass clippings, brush, leaves, tree waste and yard waste may not be mixed with domestic or commercial wastes.

(l) Eligible Electronic Devices may not be placed for collection with either solid wastes or recyclables. They must be disposed of in a manner and at a location approved by the Wisconsin Department of Natural Resources.
(Ord 54-94, §1, 4-20-94; Ord 4-09, §1, 1-13-09; Ord 150-09, §1, 10-13-09; Ord 151-10, §1, 10-12-10; Ord 23-14, §1, 5-13-14)

**Sec. 15-31. Placement for collection.**

(a) All solid waste, recyclables, yard waste or brush must be placed for pickup by 3:00 a.m. on the day of collection, but not before 5:00 p.m. of the day preceding the regularly scheduled pickup. Containers shall be returned to the point of storage no later than midnight the day of collection.

(b) All solid waste and recyclables shall be placed at the ground level next to the curb, except as stated in paragraph (e) of this section. During the winter months, containers must still be placed at ground level next to the curb. This may be accomplished by placing the containers in the driveway, or a suitable area can be shoveled out on the street side of the boulevard.

(c) The City will not be liable for damage to any property where sanitation crews collect solid waste from other than at the curb.

(d) Business establishments shall provide access to collection sites. Those sites blocked by vehicles or other obstructions will not be collected.

(e) Solid waste frozen in the container will not be collected.

(f) Bundled brush shall be placed in stacks aligned parallel to the curb and shall not obstruct either the street (and gutters) or sidewalk. In areas where there are no sidewalks, brush shall be within three (3) feet of the curb line and placed in stacks aligned parallel to the curb line.

(g) No person, except during times permitted by the Department of Public Works, shall remove or cause to be removed, any yard waste, brush, grass clippings or other yard debris, from his premises, residence, parking lot, parking area, business property or other area onto any public street.

(h) Recycling sites:

(1) The Director of Public Works or his designee may establish sites within the City of Appleton as recycling sites for the deposit of certain items including, but not limited to, yard waste, glass, aluminum, plastic and motor oil.

(2) No person shall deposit in areas designated pursuant to subsection (1), items and/or objects not specifically permitted by the Director of Public Works.

(3) Areas established pursuant to subsection (1) shall be used by residents of the City of

Appleton only, unless authorized by the Director of Public Works.
(Ord 54-94, §1, 4-20-94)

**Sec. 15-32. Scavenging of solid waste or recyclables placed for collection.**

Authorized personnel. It shall be unlawful for any person other than authorized City employees or county recycling contractors to go through, sort or take anything from any solid waste or recyclables that have been set out for the purpose of being picked up by City refuse collection personnel. Yard waste, grass clippings and brush are not included in the prohibitions set forth in this paragraph.
(Ord 166-08, §1, 11-11-08; Ord 24-14, §1, 5-13-14)

**Sec. 15-33. Collection service.**

(a) ***Residences.*** Residential solid waste shall be collected one (1) time per week from dwelling units according to schedule established by the Director of Public Works.

(b) ***Commercial establishments.*** Commercial establishments shall privately contract for collection of solid waste. For existing commercial customers of the city using 90-gallon containers, solid waste shall be collected one (1) time per week.

(c) ***Industrial waste***. The City does not collect industrial waste.

(d) ***Yard waste***. Yard waste will be collected separately from all other waste. Times of collection shall be pursuant to a schedule on file in the Department of Public Works.

(e) ***Brush.*** Brush will be collected separately from all other waste. Times of collection shall be pursuant to a schedule on file in the Department of Public Works.

(f) ***Bulky Overflow.*** Bulky overflow shall be collected on the schedule on file with the Department of Public Works.

(g) ***Grass clippings.*** The City will not collect grass clippings.

(h) ***Toxic and hazardous waste***. The City will not collect toxic and hazardous waste.

(i) ***Small dead animals*** shall be collected by the Department. Animals must be placed in a disposable bag.

(j) ***Nauseous or offensive waste.*** Liquid, manure, and other offensive or harmful waste. All liquid, hazardous or toxic waste and certain nauseous or offensive waste shall be stored separately from all other waste in approved containers. Such containers shall be clearly labeled, rodent resistant, nuisance free, sealed and secured to prevent access by the public, or as otherwise provided in the rules of the Director and not contrary to any order from the City of Appleton Health Officer or Director of Inspections. Such waste shall be considered commercial waste, and need not be collected by the Department.

(k) ***Construction debris.*** Construction debris shall not be collected by the City. It shall be the responsibility of the owner and/or contractor to dispose of construction debris as provided by law.

(l) ***Disposal of infectious material.*** The removal of apparel, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and direction of the City Health Officer. Waste shall be disposed of pursuant to Wisconsin Administrative Code NR 506.11.

(m) ***Hazardous and/or toxic waste.*** Placing or depositing any hazardous or toxic waste including, but not limited to, explosive materials such as dynamite, dynamite caps, shotgun shells, rifle cartridges, gunpowder, gasoline or other similar material in disposal bag, polycart or reusable container for collection is prohibited.

(n) ***Leaves.*** Leaves will be collected curbside during a fall collection period as designated by the Department of Public Works. Any person may alternatively transport leaves to a designated City recycling site for disposal. Persons so transporting leaves shall be responsible to cover or otherwise contain the leaves in a manner so as to prevent scattering or dumping of the leaves in transport. The Director of Public Works shall publish times the site shall be open for the disposal of leaves.

(o) ***Lead acid batteries.*** In this subsection, "lead acid battery" means any battery which is primarily composed of both lead and sulfuric acid, with a capacity of six (6) volts or more.

(1) No person may place a used lead acid battery in mixed municipal solid waste.

(2) No automotive battery retailers may dispose of a used lead acid battery except by delivery to the agent of a battery wholesaler, to a battery manufacturer for delivery to a secondary lead smelter, to a collection or recycling facility or to a secondary lead smelter.

(3) Each battery improperly disposed under subsection (1) or (2) above shall constitute a

separate violation.

(4) Retailers and wholesalers of lead acid batteries shall provide for collection of used lead acid batteries for recycling as follows:

a. Any person selling lead batteries at retail shall accept at the point of transfer, in a quantity at least equal to the number of new batteries purchased, used lead acid batteries offered by customers.

b. Any person selling lead acid batteries at wholesale shall accept at the point of transfer, in a quantity at least equal to the number of new batteries purchased, used lead acid batteries offered by customers. Any automotive battery wholesaler accepting batteries from any automotive battery retailer shall remove batteries from the retail point of collection not less than every ninety (90) days.

(p) ***Eligible Electronic Devices***. The City will not collect eligible electronic devices. Eligible Electronic Devices left on the terrace shall be removed by the property owner.
(Ord 54-94, §1, 4-20-94; Ord 128-96, §1, 12-18-96; Ord 5-09, §1, 1-13-09; Ord 151-09, §1, 10-13-09; Ord 152-10, §1, 10-12-10)

**Sec. 15-34. Fees.**

(a) All charges related to the disposal of solid waste shall be on file in the Department of Public Works. These shall include, but are not limited to, the amount to be charged for overflow bag tags, appliance tags, overflow charges, can charges or any other permit or charge pursuant to this article.

(b) Unscheduled overflow collections or brush/yard waste collections shall result in the assessment of additional fees.

(c) Additional collection and disposal fees shall be assessed to property owners who fail to properly dispose of Eligible Electronic Devices.
(Ord. 54-94, §1, 4-20-94; Ord 152-09, §1, 10-13-09; Ord 153-10, §1, 10-12-10)

**Sec. 15-35. Penalty.**

Any person violating any provision of this article shall forfeit not less than two hundred dollars ($200.00) nor more than five hundred dollars ($500.00)
(Ord 54-94, §1, 4-20-94)

## ARTICLE III. RATES AND CHARGES

### Sec. 15-36. Definitions.

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

***Commercial user*** means any property used primarily for the conduct of business or for the purpose of buying or selling goods or services.

***Municipal user*** means any facility owned and operated by the City municipal corporation or any other municipal agencies.

***Operation and maintenance costs*** means all direct and indirect costs, exclusive of debt service costs, necessary to ensure adequate solid waste collection on a containing basis in conformance with state, federal and local requirements and to ensure optional long-term facility management.

***Person*** means any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

***Residential user*** means any property used primarily as a domicile or functions customarily ancillary to such purposes.
(Ord 73-94, §1, 6-18-94)

### Sec. 15-37. Imposed.

It is hereby determined and declared to be necessary for the protection of the health, safety and welfare of the public to allocate all of the cost of collection to solid waste of the City to the property served. The cost of such service shall be imposed on the property served as a special charge for current services rendered and shall be known as solid waste collection charges and such charges are hereby imposed by the provisions of this article and W.S.A. §66.0627. The solid waste collection charge imposed by this division shall apply equally to all users that each user shall pay in direct proportion to the service received.
(Ord 73-94, §1, 6-18-94)

### Sec. 15-38. Basis.

The solid waste collection charges imposed by this article shall be based on the size and number of the containers at the location, according to Department of Public Works records, during the week a charge is incurred.
(Ord. 73-94, §1, 6-18-94)

### Sec. 15-39. Rates.

The solid waste collection charges imposed by this division shall be based upon the rates adopted by the Common Council. The rates shall be reviewed periodically and shall be such that they produce sufficient revenue to meet budget plans for their effective time period. Said rates shall be on file in the Office of the City Clerk.
(Ord 73-94, §1, 6-18-94; Ord 87-94, §1, 7-20-94)

### Sec. 15-40. Collection.

(a) The City Department of Finance is hereby appointed as the collection agency for the City and solid waste collection charges shall be collected quarterly at the same time as water payments become due. Bills shall be prepared by the Department of Finance and sent to the owner or occupant of each premises served. The Department of Finance shall allocate the actual cost of billing and collecting.

(b) The bills for solid waste collection charges shall be mailed to the designated utility bill recipient, but this mailing shall not relieve the owner of the property from liability for rental property in the event payment is not made as required in this article. The owner of any property served which is occupied by tenants shall have the right to examine collection records of the City for the purpose of determining whether such rates and charges have been paid for such tenants, provided that such examination shall be made at the office at which the records are kept and during the hours that such office is open for business.

### Sec. 15-41. Lien for delinquent charges.

(a) Solid waste collection charges shall not be payable in installments. If solid waste collection charges remain unpaid after a period of twenty (20) days from the date of utility bill, such bill shall become a delinquent special charge and shall become a lien as provided in W.S.A. §66.0627. Said charges shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charges. Unpaid charges shall be assessed a one (1) percent per month late payment charge to bills not paid within twenty (20) days of issuance.
(Ord 27-00, §1, 4-22-00)

(b) All delinquent special charges shall be subject to a ten (10) percent penalty in addition to all other charges and prior penalties or interest when the delinquent special charge is extended upon the tax roll.
(Ord. 73-94, §1, 6-18-94)

*(The next page is 1045.)*

# Chapter 16

## Streets, Sidewalks and Other Public Places


**ARTICLE I. IN GENERAL**

Definitions ..... 16-1
Correction of damage or other condition caused by violation of chapter ..... 16-2
Authority to assess costs ..... 16-2(a)
Deposit ..... 16-2(b)
Alteration of grade ..... 16-3
Injury or destruction of trees ..... 16-4
Interference with protective barriers ..... 16-5
Removal or passing of street barrier ..... 16-6
Driving vehicle or curb, sidewalk, etc. ..... 16-7
Littering ..... 16-8
Obstructing passage ..... 16-9
Snow and ice removal ..... 16-10
Compliance with City plans and specifications ..... 16-11
Work in public right-of-way – permit ..... 16-12
Administrative authority ..... 16-12(a)
Fee; commencement of work without permit ..... 16-12(b)
Application; issuance ..... 16-12(c)
Exemption from fee ..... 16-12(d)
Same – safety requirements; temporary traffic control ..... 16-13
Same – restoration of street surface ..... 16-14
Utility installations ..... 16-15
Approval of plans for parking lots, driveways, etc. ..... 16-16
Driveway aprons ..... 16-17
Yard waste ..... 16-18
Reserved ..... 16-19 – 16-35

**ARTICLE II. STREETS**

Street naming system ..... 16-36
Official map ..... 16-37
Established; parts ..... 16-37(a)
Street and subdivision map ..... 16-37(a)(1)
Major street development plan ..... 16-37(a)(2)
Plat approval ..... 16-37(b)
Permits required for erection of building in street bed ..... 16-37(c)
Changes and amendments ..... 16-37(d)
Registration ..... 16-37(e)
Minimum width for certain streets ..... 16-38
Authority to impose weight limitations or other restrictions on vehicles ..... 16-39
Filling and resurfacing of street excavations ..... 16-40
Reserved ..... 16-41 – 16-55

**ARTICLE III. SIDEWALKS**

Awnings ..... 16-56
Covering or barrier for subsurface areas ..... 16-57
Construction – standards ..... 16-58
Same – permit required; suspension ..... 16-59

Construction or repair by licensed cement finisher ..... 16-60
Marking of improvements ..... 16-61

***Charter ordinance reference--**Board of Public Works, §3-161.

**Cross reference(s)--**Library Board, §2-151 et seq.; Director of Public Works, §2-291 et seq.; Public Works Department, §2-366 et seq.; moving of buildings and structures, §4-206 et seq.; license required for persons constructing or repairing streets, sidewalks or other appurtenances, §9-33; possession of open container of alcoholic beverages on public property restricted, §10-14; operation of snowmobiles restricted, §10-25; special assessment procedure for public improvements, §18-101 et seq.

**State law reference(s)--**Art museums, W.S.A. §66.0917; civic centers, W.S.A. §66.0919; special assessments, W.S.A. §66.0703 et seq.; sidewalks, W.S.A. §66.0907; curb ramping, W.S.A. §66.0909.

## ARTICLE I. IN GENERAL.

### Sec. 16-1. Definitions.

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

***Boulevard*** means that part of a street or highway running down the middle thereof which consists of earth and the curb confining such earth and which is customarily planted with grass, trees and shrubs.

***Driveway apron*** means that portion of any driveway between the traveled portion of the street and the property line.

***Terrace*** means that part of the street right-of-way between the curbline and the property line.
(Code 1965, §5.18, Ord 166-02, §1, 8-27-02)
**Cross reference(s) –** Definitions and rules of construction generally, §1-2.

### Sec. 16-2. Correction of damage or other condition caused by violation of chapter.

(a) ***Authority to assess costs.*** If any person violates any provision of this chapter and thereby damages any street, sidewalk, alley, park, public grounds, curb, barrier, barricade or tree, or litters any street, alley, park or public grounds, the City may summarily correct such damage or condition and assess the cost thereto to the offending person.

(b) ***Violations.*** If it is determined that a violation of this chapter exists, notice shall be given to the permit holder or his representative ordering compliance within twenty-four (24) hours. If compliance has not been accomplished within this time period, the City shall cause the violation to be corrected and all costs assessed.
(Code 1965, §5.07(2); Ord 4-93, §1, 1-6-93; Ord 120-06, §1, 10-10-06)

### Sec. 16-3. Alteration of grade.

No person, except those duly authorized, shall alter or change, or cause to be altered or changed, the grade of any street, sidewalk, alley, park, or other public grounds within the City.
(Code 1965, §5.07(1)(a))

### Sec. 16-4. Injury or destruction of trees.

No unauthorized person shall injure or destroy trees within or on any street, alley, sidewalk, park or other public grounds in the City.
(Code 1965, §5.07(1)(b))
**Cross reference(s) –** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

### Sec. 16-5. Interference with protective barriers.

No unauthorized person shall interfere with, break down or remove, or cause to be interfered with, broken down or removed, any guard protection, barrier or barricade placed in any street, sidewalk, alley or other public grounds as a protection of the City against damages or the traveling public against injury, or any work of improvement against damages.
(Code 1965, §5.07(1)(c))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

### Sec. 16-6. Removal or passing of street barrier.

No person shall do any act prohibited by W.S.A. §86.06. The provisions of W.S.A. §86.06, exclusive of any penalty imposed thereby, are adopted by reference as a part of this chapter.
(Code 1965, §5.07(1)(g))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17, schedule of deposits for citation, §1-18.

### Sec. 16-7. Driving vehicle over curb, sidewalk, etc.

No unauthorized person shall operate construction machinery or other vehicles over any curb, sidewalk, boulevard or terrace, except at authorized driveways, unless protected as required by the Common Council.
(Code 1965, §5.07(1)(e))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation,§1-18; traffic and vehicles ch. 19

### Sec. 16-8. Littering.

No unauthorized person shall place, or cause to be placed, any debris of any nature whatsoever, junk, garbage, yard waste or any other waste material, other than refuse placed on the terrace for collection, upon the streets, alleys, highways, public parks or other property not owned by him, or upon any body of water within the City.
(Code 1965, §5.07(1)(f); Ord 70-92, §1, 7-8-92)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; nuisances, ch. 12

### Sec. 16-9. Obstructing passage.

(a) No unauthorized person shall stand, sit, lie, remain or otherwise occupy any street, sidewalk or other public way open for pedestrian or vehicular travel in such a manner as to annoy or molest any pedestrian thereon, or so

as to obstruct or unreasonably interfere with the free passage of pedestrians, motor vehicles or other modes of travel. No person shall stand or remain at or near the entrance to any public or private building in such a manner as to annoy persons entering or leaving or passing such entrance. No person shall stand, sit, lie, remain or otherwise occupy any motor vehicle without permission of the owner.

(b) No kiosk, bulletin board or other decorative object shall be placed upon the street right-of-way except upon benches or other seating facilities provided for such purposes by the City.

(c) Sandwich board/temporary signs may be placed in the street right-of-way in conformance with the City of Appleton Sandwich Board/Temporary Sign Policy.
(Code 1965, §5.07(1)(d), Ord 164-07, §1, 12-25-07)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18

**Sec. 16-10. Snow and ice removal.**

(a) Every person shall, no later than thirty-six (36) hours following cessation of a snowfall, remove all snow and/or ice from the entire width of the sidewalk along the entire perimeter of the premises owned or occupied by him, including any handicap access ramps along the perimeter of the premises; provided that, immediately after the accumulation of ice on such sidewalk, it shall be treated with sand, salt or other substance to prevent it from being slippery. The ice shall continue to be so treated in such a manner as to prevent the ice from being dangerous until it can be removed and shall then be promptly removed. If the owner or occupant of such premises shall fail to remove and keep removed, such snow and ice or to sprinkle a sidewalk as required, the work shall be done under the direction of the Common Council and the expenses thereof made a special tax upon the lot along the entire perimeter of where such work was done.

(b) No person shall remove or cause to be removed any snow or ice from his premises, residence, parking lot, parking area, business property or other area onto any public right-of-way or property. Snow removed from public sidewalks shall not be stored in any manner which will obstruct or limit vehicular or pedestrian vision, movement or access. Snow accumulations on sidewalks, handicap ramps or driveway aprons resulting from street snow plowing operations shall be removed by the owner of the abutting premises in accordance with the provisions of this section. In those instances where insufficient space exists between the sidewalk and street for the storage of all snow removed, it shall be stored on the abutting premises.

(c) The deposit of any snow or ice upon any sidewalk alley or street of the city contrary to the provisions of this section is a nuisance, and in addition to the penalty provided for violation of this chapter, the City may summarily remove any snow or ice so deposited and cause the cost of the removal to be charged to the owner of the property from which the snow or ice has been removed.
(Code 1965, §5.10; Ord 155-10, §1, 10-26-10; Ord 98-13, §1, 11-26-13)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 16-11. Compliance with City plans and specifications.**

All streets and alleys shall be graded, graveled, paved or improved, all sidewalks shall be constructed or rebuilt, and all underground utilities in public streets, alleys and public grounds, all bridges, and all other public works of any kind whatever shall be built, constructed, erected or completed according to the plans and specifications kept on file in the office of the Director of Public Works. Such work shall be done in a manner and of the materials the specifications prescribe. Said work shall be completed in accordance with the requirements set forth in the City's *Temporary Traffic Control Manual for Street Construction and Maintenance Operations in the City of Appleton*, latest edition.
(Code 1965, §5.06; Ord 143-05, §1, 12-13-05)

**Sec. 16-12. Work in public right-of-way – permit.**

(a) ***Administrative authority.*** Permits shall be issued by the Engineering Division of the Department of Public Works.

(b) ***Fee; commencement of work without permit.***

(1) An established permit fee in the amount which is on file in the Department of Public Works shall be paid for each permit issued under this section. If work is commenced before a permit is obtained and the permit request is denied, the Director of Public Works shall order the work ceased or the condition removed until a permit is obtained, for which the applicant shall pay a fee of four (4) times the established fee.

(2) If a permit is denied, the Director of Public Works or the Common Council may cause any offending conditions to be removed or corrected and the expense thereof charged to the person responsible.

(c) ***Application; issuance.*** Permits may be applied for on forms provided in the Department of Public Works. Permits will be issued after the necessary bond, certificate of insurance and Common Council authorization have been

provided.

(d) ***Processing of permit applications.*** With respect to any permitting process the City establishes under Wis. Stat. §182.017(1r) for use of City streets, the City shall approve or deny a permit application no later than sixty (60) days after receipt of the application. If the City fails to act on the application within that sixty- (60-) day period, the application shall be deemed granted and the City shall issue the permit to the applicant. If the City denies a permit application, the City shall provide the applicant with a written explanation of the reasons for the denial at the time the City denies the application. *See* Wis. Stat. §182.017(9).

(e) ***Exemption from fee***. No person having a contract with the City for doing any work on any public right-of-way, park or other public grounds within the City shall be required to pay for a permit issued in accordance with this section.
(Code 1965, §5.08(1) – (4), (7), Ord 188-04, §1, 1-1-05; Ord 14-05, §1, 12-13-05; Ord 35-09, §1, 2-24-09)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 16-13. Same – safety requirements; temporary traffic control.**

(a) Whenever a permittee receives a permit to excavate, construct or obstruct any public right-of-way open to travel, he shall have sole responsibility to furnish, erect and maintain substantial barricades and shall furnish, post and maintain warning signs prior to commencement of activity in accordance with the requirements set forth in the City's *Temporary Traffic Control Manual for Street Construction and Maintenance Operations in the City of Appleton*, latest edition.

(b) ***Administrative authority***. The Director of Public Works or his/her designee is authorized to adopt and periodically update the *Temporary Traffic Control Manual for Street Construction and Maintenance Operations in the City of Appleton*.

(c) ***Enforcement***. The Traffic Engineer and/or his/her designee are empowered to take all necessary actions to enforce the provisions of §16-12 and §16-13, including, but not limited to, issuing citations.
(Code 1965, §5.08(5); Ord 145-05, §1, 12-13-05 ; Ord 93-07, §1, 5-22-07)

**Sec. 16-14. Same – restoration of street surface.**

The holder of a street excavation, construction or street occupancy permit shall have sole responsibility to restore the surface according to the street excavation standards of the City.
(Code 1965, §5.08(6))

**Sec. 16-15. Utility installations.**

(a) Prior to the installation of mains and pipes by utilities, all utilities shall submit three (3) sets of plans showing the location and depth of the proposed installation to the Department of Public Works for approval by the Common Council.

(b) All utilities occupying street rights-of-way shall locate all mains, pipes and other equipment in the manner directed by the Common Council to provide the most efficient use of the street right-of-way. Utilities shall be responsible for all restoration costs of the street surface resulting from street excavation or other installation work and shall promptly relocate all pipes, mains or other equipment at their sole expense upon notice from the City.
(Code 1965, §5.15; Ord 134-89, §1, 10-18-89)

**Sec. 16-16. Approval of plans for parking lots, driveways, etc.**

Plans for construction of parking lots, driveways and other areas providing access for vehicles or people and for storage of equipment, and abutting the public right-of-way, shall be approved by the Engineering Division of the Department of Public Works prior to commencement of construction. Such plans shall show proposed grades, curbs, drainage, parking arrangements and such other pertinent features as the Engineering Division shall require.
(Code 1965, §5.16)

**Sec. 16-17. Driveway aprons.**

Driveway aprons may be installed by the City when a resolution so requesting the installation is approved by the Common Council. This procedure shall be applicable in areas where the street to which the driveway is connecting has been improved.
(Ord 64-92, §1, 6-17-92, Ord 167-02, §1, 8-27-02)

**Sec. 16-18. Yard waste.**

No person, except during times permitted by the Department of Public Works, shall remove or cause to be removed any yard waste, brush, grass clippings, or other yard debris, from his premises, residence, parking lot, parking area, business property or other area onto any public street.
(Ord 83-92, §1, 8-5-92)

**Secs. 16-19 – 16-35. Reserved.**

## ARTICLE II. STREETS.

### Sec. 16-36. Street naming system.

The intersection of College Avenue and Oneida Street shall be the base from which all street directions and numbers are measured. All streets running north and south and lying north of College Avenue and Newberry Street bordering on Block 57 east to the City limits shall bear the prefix "north". All streets running north and south and lying south of College Avenue and Newberry Street bordering on Block 57 east to the City limits shall bear the prefix "south". All streets running east and west and lying east of Oneida Street shall bear the prefix "east". All streets running east and west and lying west of Oneida Street shall bear the prefix "west".

### Sec. 16-37. Official map.

(a) ***Established; parts.*** There is hereby established an Official Map of the City showing the location and width of streets, highways and parkways as laid out, adopted and established. This Official Map is hereby declared to consist of a street and subdivision map and a major street development plan.

(1) ***Street and subdivision map.*** The Department of Public Works shall maintain a quarter section atlas of the City which shall be on the street and subdivision map. This map shall be kept current for the area within the corporate limits of the City. It is intended that this map show all platted subdivision and public rights-of-way.

(2) ***Major street development plan.*** The Community Development Department shall maintain a map of the City and its extraterritorial jurisdiction area as defined in W.S.A. §62.23, with a certified copy of the map to be kept on file in the City Clerk's Office. This map shall be kept current and shall show all proposed major street extensions which have been adopted by the Common Council.

(b) ***Plat approval***. No land subdivision plat shall be approved unless such plat conforms to the Official Map.

(c) ***Permit required for erection of building in street bed***. For the purpose of concerning the integrity of the Official Map, no building shall be erected within the bed of any street, highway or parkway shown on the Official Map unless a permit therefore shall first have been applied for and issued in accordance with W.S.A. §62.23(6)(d), (e), (f) and (g). The applicant for such a permit shall submit to the Inspections Supervisor, with his application, an accurate

plot plan, certified by a state registered surveyor, showing the location of the proposed building with reference to any street, highway or parkway shown on the Official Map.

(d) ***Changes and amendments.*** The Common Council may, whenever and as often as it may deem necessary for the public interest and after a public hearing as provided in W.S.A. §62.23(6)(b), change or add to the official map of the City so as to establish the exterior lines of planned new streets, highways and parkways, or to widen, narrow, extend or close existing streets, highways and parkways.

(e) ***Registration.*** The City Clerk shall file with the Register of Deeds of Outagamie County, Winnebago County and Calumet County certificates showing that the City has established an Official Map, and shall do likewise as to any changes or additions.
(Code 1965, §5.04; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 129-96, §1, 12-18-96)
**Cross reference(s)** – Street requirements in mobile home parks, §11-85; street requirements for subdivisions, §17-95; dedication of streets and pedestrian ways in subdivisions, §17-136; through streets designated, §19-41; one way streets designated, §19-42; left turns restricted, §19-43; no right turn on certain streets, §19-44; speed limits on specific streets, §19-56, et seq.

**Sec. 16-38. Minimum width for certain streets.**

Pursuant to W.S.A. §236.16(2), the minimum width of streets such as short courts, short extensions of existing streets and in cases where platting of land would not be practical if sixty- (60-) foot-wide streets were required shall be fifty (50) feet.
(Code 1965, §5.05)

**Sec. 16-39. Authority to impose weight limitations or other restrictions on vehicles.**

(a) The Director of Public Works is hereby named as the officer in charge of maintenance of streets maintained by the City and may:

(1) Impose special weight limitations on any city street or portion thereof which, because of weakness of the road bed due to deterioration or climatic conditions, or other special or temporary conditions, would be likely to be seriously damaged or destroyed in the absence of such special limitations.

(2) Impose special weight limitations on bridges or culverts when, in the Director's judgment, such bridge or culvert cannot safely sustain the maximum weights specified by State Statutes.

(3) Order the owner or operator of a vehicle being operated on the city streets to suspend operation if in his judgment such vehicle is causing or likely to cause injury to such street or is visibly injuring the permanency thereof or the public investment therein, except when W.S.A. §84.20 is applicable or when the vehicle is being operated pursuant to a contract which provides that the City will be reimbursed for any damage done to the streets. City traffic officers and the City Inspections Supervisor may also order suspension of operation under the circumstances and subject to the limitations stated in this subsection.

(b) The special weight limitations authorized by subsection (a)(1) of this section shall be imposed by the Director of Public Works by erecting signs on or along the street on which it is desired to impose the limitation. The special weight limitation authorized by subsection (a)(2) of this section shall be imposed by erecting similar signs within one hundred (100) feet before each end of the bridge or culvert on which the weight limitation applies. All weight limitation signs shall comply with the rules of the State Department of Transportation.

(c) The Director of Public Works shall advise the City Inspections Supervisor and the alderperson of the ward of the streets that have been restricted and the dates on which they are being restricted. The Inspections Supervisor may withhold any permit or approval of work done on homes or construction projects in the area until the weight restrictions have been removed from the street.

(d) The Director of Public Works may establish weight limit restrictions on non-permanent surface streets. The City will post weight limit signs on said streets when appropriate. The weight limit shall extend until the Director determines the weight restriction is no longer necessary. Holders of building permits must obtain a permit from the Street Division for use of streets so restricted, which will enable the permit holder to operate trucks be issued in accordance with the policy adopted by the Common Council on file in the Department of Public Works.
(Code 1965, §5.19; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 30-94, §1, 1-19-94; Ord 129-96, §1, 12-18-96)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 16-40. Filling and resurfacing of street excavations.**

All street excavations shall be backfilled and

resurfaced in the manner prescribed by the street excavation standards on file in the office of the Department of Public Works.
(Code 1965, §5.14)

**Secs. 16-41 – 16-55. Reserved.**

## ARTICLE III. SIDEWALKS*

**Sec. 16-56. Awnings.**

No person shall construct or maintain any awning which is not at least seven (7) feet at the lowest part thereof above the top of the sidewalk. Awnings shall be supported without posts, but by iron brackets or by an iron framework attached firmly to the building so as to leave the sidewalk wholly unobstructed. All awnings constructed in a manner different from that specified in this section and in any way obstructed to the public use of travel on the sidewalks shall be removed within ten (10) days after notice in writing, given by the authority of the Common Council, and personally served on the owner or occupant of the building to which such awning is attached.
(Code 1965, §5.09)

**Sec. 16-57. Covering or barrier for subsurface areas.**

Every person owning any building in the City having a subsurface area between the building and sidewalk or extending into the sidewalk shall keep the area covered by a closed iron or a closed iron and glass cover laid perfectly even with the surface of the sidewalk, or shall keep the area surrounded on all sides by a sufficient railing or barrier at least three (3) feet high, except in cases of stairways leading from the sidewalks to basements, which shall have a sufficient railing or barrier at least three (3) feet high on three (3) sides thereof.
(Code 1965, §5.11)

**Sec. 16-58. Construction – standards.**

Sidewalks shall be constructed according to the standards and specifications established by the Department of Public Works.
(Code 1965, §5.12)

**Sec. 16-59. Same – permit required; suspension.**

(a) Any person desiring to construct concrete sidewalk improvements shall secure a permit from the Department of Public Works. A charge as determined by the Common Council, which is on file in the City Clerk's Office, is payable to the Director of Finance at the time the permit is secured. After the issuance of the permit, the Department of Public Works shall set stakes indicating the line and grade of the sidewalk.

(b) ***Suspension of issuance of permits.*** The Director of Public Works shall suspend the issuance of permits to any person who violates this section or §9-33 or who becomes delinquent in any of his obligations to the City under these sections. Such suspension shall continue until the delinquency is removed or until action is taken on the violation by the Finance Committee.

(Code 1965, §5.13(5), (6); Ord 4-93, §1, 1-6-93; Ord 14-13, §1, 7-8-13)
**Cross reference(s)** – Licenses required, §9-33; Pedestrian walkways in mobile home parks, §11-88.

**Sec. 16-60. Construction or repair by licensed cement finisher.**

(a) Any property owner may hire a licensed cement finisher to repair or replace his sidewalk or driveway apron provided that the work is done under the supervision of the Department of Public Works and that the provisions of §16-58 are complied with. Such owner must obtain a permit. The permit fee shall be on file in the office of the City Clerk.

(b) Any property owner may hire a licensed cement finisher to construct a new sidewalk or driveway apron, provided that the work is done under the supervision of the Department of Public Works and that the provisions of §16-58 are complied with. Such owner must obtain a permit. The permit fee shall be on file in the office of the City Clerk.
(Code 1965, §5.13(7), Ord 74-02, §1, 5-7-02, Ord 168-02, §1, 8-27-02; Ord 76-10, §1, 5-11-10)

**Sec. 16-61. Marking of improvements.**

All contractors shall mark, at the ends of each length of concrete sidewalk improvement constructed, the year in which constructed and the name of the contractor. No license shall be issued under this division until the Department of Public Works has verified that the contractor's nameplate conforms with established standards.
(Code 1965, §5.13(8))

*(The next page is 1103.)*

# Chapter 17

# Subdivisions

**ARTICLE I. IN GENERAL**
Introduction ..... 17-1
Authority ..... 17-1(a)
Purpose ..... 17-1(b)
Abrogation and greater restrictions ..... 17-1(c)
Interpretation ..... 17-1(d)
Severability ..... 17-1(e)
Repeal ..... 17-1(f)
Title ..... 17-1(g)
Definitions and rules of construction ..... 17-2
General provisions ..... 17-3
Jurisdiction ..... 17-3(a)
Lot combinations ..... 17-3(b)
Compliance ..... 17-3(c)
Dedication and reservation of lands ..... 17-3(d)
Survey monuments ..... 17-3(e)
Modification of regulations ..... 17-3(f)
Enforcement, penalties and remedies ..... 17-3(g)
Violations ..... 17-3(g)(1)
Penalties ..... 17-3(g)(2)
Issuance of building permits ..... 17-3(g)(3)

**ARTICLE II. PLATS**
DIVISION 1. GENERALLY
Preplatting requirements ..... 17-4
Preplatting conference ..... 17-4(a)
Required information ..... 17-4(b)
DIVISION 2. PRELIMINARY PLAT
Submission of preliminary plat ..... 17-5
Submission ..... 17-5(a)
Filing complete application with City Clerk ..... 17-5(b)
Preliminary plat review and approval ..... 17-6
Review and decision by Plan Commission ..... 17-6(a)
Review and decision by Common Council ..... 17-6(b)
Failure to act ..... 17-6(c)
Effect of approvals ..... 17-6(d)
Preliminary plat amendment ..... 17-6(e)
Technical requirements for preliminary plats ..... 17-7
General ..... 17-7(a)
Plat data ..... 17-7(b)
Technical requirements for preliminary drainage plans ..... 17-8
General ..... 17-8(a)
Drainage plan data ..... 17-8(b)
Technical requirements for feasibility plan ..... 17-9
General ..... 17-9(a)
DIVISION 3. FINAL PLAT
Submission of final plat ..... 17-10
Submission ..... 17-10(a)
Filing complete application with City Clerk ..... 17-10(b)
Final plat review and approval ..... 17-11
Review and decision by Plan Commission ..... 17-11(a)
Review and decision by Common Council ..... 17-11(b)

Partial platting ..... 17-11(c)
Technical requirements for final plats ..... 17-12
General ..... 17-12(a)
Plat data ..... 17-12(b)
Property owners association ..... 17-12(c)
Survey accuracy ..... 17-12(d)
Accuracy of survey ..... 17-12(d)(1)
Surveying and monumenting ..... 17-12(e)
Wisconsin county coordinate system for Outagamie County ..... 17-12(f)
Easement statement ..... 17-12(g)
Certificates ..... 17-12(h)
Recordation ..... 17-12(i)
Filing of true copy of plat ..... 17-12(j)
Technical requirements for final drainage plans ..... 17-13
General ..... 17-13(a)
Drainage plat data ..... 17-13(b)
Technical requirements for "record" drainage plans ..... 17-14
General ..... 17-14(a)
DIVISION 4. MINOR LAND DIVISION (CERTIFIED SURVEY MAPS)
Submission of minor land division (certified survey map) ..... 17-15
Presubmittal meeting ..... 17-15(a)
Submission ..... 17-15(b)
Filing complete application with City Clerk ..... 17-15(c)
Minor land division (certified survey map) review and approval ..... 17-16
Review and decision by Community Development Department ..... 17-16(a)
Technical requirements for minor land divisions (certified survey map) ..... 17-17
General ..... 17-17(a)
Monumenting ..... 17-17(b)
Wisconsin county coordinate system for Outagamie County ..... 17-17(c)
Certificates ..... 17-17(d)
Recordation ..... 17-17(e)
Filing of true copy of certified survey map ..... 17-17(f)
Technical requirements for drain plans for minor land divisions (certified survey map) ..... 17-18
General ..... 17-18(a)
Drainage plan data ..... 17-18(b)
DIVISION 5. REPLAT
Replat ..... 17-19
DIVISION 6. EXTRATERRITORIAL PLAT APPROVAL JURISDICTION
Extraterritorial plat approval jurisdiction ..... 17-20
General ..... 17-20(a)

**ARTICLE III. LOT LINE ADJUSTMENT**
DIVISION 1. LOT LINE ADJUSTMENT
Lot line adjustment review and approval ..... 17-21
Pre-application ..... 17-21(a)
Use of a Lot Line Adjustment Application ..... 17-21(b)
Submission ..... 17-21(c)
Referral to City departments ..... 17-21(d)
Review and decision by Community Development Department ..... 17-21(e)
Technical requirements for lot splits ..... 17-22
General ..... 17-22(a)
Monumenting ..... 17-22(b)
Recordation ..... 17-22(c)
Filing of recorded plat of survey and deed or instrument and property tax payment ..... 17-22(d)

**ARTICLE IV. DESIGN STANDARDS**

Compliance with City standards....17-23
Compliance with State standards....17-24
Streets....17-25
General considerations....17-25(a)
Streets to conform to City plans....17-25(b)
Arrangement....17-25(c)
Arterial streets....17-25(c)(1)
Collector streets....17-25(c)(2)
Local streets....17-25(c)(3)
Marginal access streets....17-25(c)(4)
Width....17-25(d)
Street names....17-25(e)
Dead-end streets....17-25(f)
Cul-de-sacs....17-25(g)
Reserve strips....17-25(h)
Half streets....17-25(i)
Intersections....17-25(j)
Dead-end and "T" alleys....17-25(k)
Special streets....17-25(l)
Marginal access streets....17-25(m)
Lots....17-26
Generally....17-26(a)
Dimensions....17-26(b)
Frontage....17-26(c)
Side lot lines....17-26(d)
Residential lots backing on arterials....17-26(e)
Corner lots....17-26(f)
Proportions....17-26(g)
Lots to follow municipal boundaries....17-26(h)
Land suitability....17-26(i)
Existing flora....17-26(j)
Easements....17-27
Drainage ways....17-28

**ARTICLE V. DEDICATIONS AND RESERVATIONS**
Dedication of public sites and open spaces....17-29
Reservation of potential sites....17-29(a)
Dedication of sites....17-29(b)
Proportionate payment in lieu of dedication....17-29(c)
Determination of feasibility....17-29(d)
Identification of dedicated areas....17-30
Reservation of road widths....17-31
Reservation of public sites....17-32
Private reservations....17-33
Right of refusal....17-34
Accomplishment of dedication....17-35

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***Charter ordinance reference--**Plan commission, §3-100 et seq.

## ARTICLE I. IN GENERAL

### Sec. 17-1. Introduction.

(a) ***Authority***. In accordance with the authority granted by §236.45 of the Wisconsin Statutes and for the purposes listed in §236.01 and §236.45 of the Wisconsin Statutes, the Common Council of the City of Appleton, Wisconsin, does hereby ordain as follows:

(b) ***Purpose***. This ordinance is enacted for the following purposes:

(1) To promote the public health, safety, comfort, convenience, prosperity and general welfare; to conserve, protect and enhance property and property value; and to secure the most appropriate use of land.

(2) To promote orderly growth and development; to further the orderly layout and use of land; to afford adequate, safe, convenient means of traffic circulation for the public; to lessen congestion in the streets and highways; to provide for proper ingress and egress; to provide for adequate light and air; to facilitate adequate but economical provisions for water, sewerage and other public improvements; and to safeguard the public against flood damage.

(3) To prescribe reasonable rules and regulations governing the subdivision and platting of land, the preparation of plats, the location, width, and course of streets and highways, the installation of utilities, street pavements and other essential improvements; the provision of necessary public grounds for schools, parks, playgrounds and other public open spaces; and to promote proper monumenting of subdivided land and conveyancing by accurate legal description.

(4) To establish procedures for submission, approval, and recording of plats; and to provide the means for enforcement and to provide penalties for violations.

(c) ***Abrogation and greater restrictions***. It is not intended by this ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

(d) ***Interpretation***. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

(e) ***Severability***. If any section, portion, or provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is adjudged invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

(f) ***Repeal***. All other ordinances or parts of ordinances of the City inconsistent or conflicting with this ordinance, to the extent of the inconsistency only, are hereby repealed.

(g) ***Title***. This ordinance shall be known as, referred to, or cited as, the "City of Appleton Land Division and Subdivision Ordinance."
(Code 1965, §21.01 and §21.03, Ord 200-01, §1, 12-24-01; Ord 140-06, §1, 12-26-06)
**Cross reference(s)** – Definitions and rules of construction generally, §1-2.

### Sec. 17-2. Definitions and rules of construction.

(a) ***Definitions***. The following words and terms, wherever they occur in this ordinance, shall be construed as herein defined. Words not defined in this subdivision ordinance shall be interpreted in accordance with definitions in Chapter 23, Zoning Ordinance in the Municipal Code, *The New Illustrated Book of Development Definitions* by Harvey S. Moskowitz, or Chapter 20 Utilities, Article V. Stormwater Management Services and Article VI. Stormwater Management Standards and Planning in the Municipal Code. If a word or term is not defined as identified by the protocol above, it shall have the meaning set forth in the latest edition of Webster's New World College Dictionary. When not inconsistent with the context, words used in the present tense include the future, and words in the singular number include the plural number. The word "shall" is defined as mandatory.

***Abutting*** means to border upon.

***Assessor's plat*** means plats under §70.27, Wisconsin State Statutes.

***Block***. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad right-of-way, shorelines of waterways, or boundary lines of municipalities.

***Building setback line*** means a line parallel to a lot line and at a distance from the lot line to comply with the Zoning Ordinance's yard and setback requirements.

***Building site*** means a parcel of land occupied, or intended to be occupied by a structure as permitted under applicable Zoning Ordinance regulations.

***Certified survey map*** means a map of a division of land prepared in accordance with §236.34 of the Wisconsin State Statutes and this ordinance.

***City*** means the City of Appleton.

***City clerk*** means the Clerk of the City of Appleton, Wisconsin.

***City datum***. National Geodetic Vertical Datum 1929 (mean sea level).

***City engineer***. The engineer of the City of Appleton, Wisconsin or his or her authorized representative.

***City forester***. The forester of the City of Appleton, Wisconsin.

***Commission*** means the City Plan Commission.

***Community utility system*** means a centralized water supply or sewage treatment facility with associated collected or distribution system, whether operated as a municipal service or public utility.

***Complete application*** means an application for a preliminary or final plat, certified survey map or lot line adjustment approval or conditional approval that contains the following: 1. Submittal and completion of all applicable application forms; 2. Submittal of all required supporting application information; 3. Submittal of all required fees.

***Comprehensive plan*** means the development plan, also called a master plan, adopted by the City Plan Commission and certified by the Common Council pursuant to §62.23 of the Wisconsin State Statutes, including proposals for future land use, transportation, urban development, and public facilities. Devices for the implementation of these plans, such as zoning, official map, land division, and building ordinances and capital improvements programs shall also be considered a part of the comprehensive plan.

***Contiguous***. Lots are contiguous when at least one (1) lot line of one (1) lot touches a lot line of another lot.

***County*** means the counties of Calumet, Outagamie, Winnebago, Wisconsin.

***Development*** means the act of building structures or installing improvements.

***Easement*** means a grant by a property owner for use of a parcel of land by the public or any person for any specific purpose or for purposes of access, constructing and maintaining utilities, including: sanitary sewers, water mains, electric lines, telephone lines, other transmission lines, storm sewer, storm drainage ways, gas lines, or other service utilities.

***Engineer*** means a professional engineer licensed by the State of Wisconsin.

***Extraterritorial plat approval jurisdiction***. The unincorporated area within three (3) miles of the City.

***Final plat***. A map or plan of a subdivision and any accompanying material as described in Division 3 of this ordinance.

***Impervious area or impervious surface***. These terms mean horizontal surface which has been compacted or covered with a layer or material so that it is highly resistant to infiltration by rain water. It includes, but not limited to, semi-impervious surfaces such as compacted clay, as well as streets, roofs, sidewalks, parking lots and other similar surfaces.

***Improvement***. Any sanitary sewer, storm sewer, open channel, water main, roadway, parkway, public access, curb and gutter, sidewalk, pedestrian way, planting strip, or other facility for which the City may ultimately assume the responsibility for maintenance and operation.

***Lot*** means a tract of land, designated by metes and bounds, land survey, minor land division or plat, and recorded in the office of the county register of deeds.

***Lot area*** means any area within a lot, including land over which easements have been granted, but not including any land within the limits of a street upon which such lot abuts, even if fee title to such street is held by the owner of the lot.

***Lot Combinations*** means combining two (2) or more lots of record into a single lot, and no other property

boundary changes are proposed, or combining two (2) or more parcel identification numbers into a single parcel identification number.

***Corner lot*** means a lot situated at the junction of, and abutting on, two (2) or more intersecting streets.

***Double frontage lot*** means an interior lot having frontage on the front and on the rear of the lot.

***Lot line***. The peripheral boundaries of a parcel of land.

***Lot of record*** means a lot which is part of a subdivision, the map of which has been recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county register of deeds.

***Lot Line Adjustment*** means an adjustment or relocation of property line(s) between adjacent lots that does not result in the creation of additional lots, from what originally existed and where the existing lot is not reduced in size or the development standards are reduced below the minimum requirements established by the zoning and subdivision ordinances.

***Metes and bounds description*** means a description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot, or area by described lines or portions thereof.

***Minor land division***. Where the act of division creates up to four (4) parcels or building sites exclusive of the remnant parcel within a period of five (5) years.

***Official map***. §62.23(6) of the Wisconsin State Statutes provides that the Common Council may establish an Official Map for the precise designation of the right-of-way line and site boundaries of streets, highways, parkways, parks, and playgrounds, both existing and proposed. The Statutes further provide that the Official Map may be extended to include areas beyond the corporate limits but within the extraterritorial plat approval jurisdiction of the municipality.

***Open space*** means a natural or manmade landscaped area not occupied by any structures, buildings, or impervious surfaces.

***Owner*** means a person, individual firm, association, syndicate or partnership that appears on the recorded deed of the lot.

***Parcel***. See ***Lot***.

***Parcel identification number*** means an identification number assigned to a parcel of land in the City of Appleton for taxation purposes. Also commonly known as a tax number or tax key number.

***Pedestrian way*** means a right-of-way, usually running at right angles to streets, which is intended for the convenience of pedestrians only; it may also provide public right-of-way for utilities.

***Preliminary plat***. A map showing the salient features of a proposed subdivision submitted to the Plan Commission for purposes of preliminary consideration as described in Division 2 of this ordinance.

***Property line*** means the legal boundaries of a parcel of property that may or may not coincide with platted lot lines or street right-of-way.

***Plat*** means a map, graphics, or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record title. The plat is a recorded, legal document and must conform to all Wisconsin State Statutes.

***Plat of survey*** means a map prepared in accordance with Chapter A-E7 of the Wisconsin Administrative Code and this ordinance.

***Remnant parcel*** means the original parcel left over after subdivision or minor land division.

***Replat***. The process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat, certified survey map, or part thereof. The legal dividing of a large block, lot, or outlot within a recorded subdivision plat or certified survey map without changing exterior boundaries of said block, lot, or outlot is not a replat.

***Reserve strip*** means any land which would prohibit or interfere with the orderly extension of streets, roads, pedestrian ways, sanitary sewer, water mains, storm water facilities, or other utilities or other improvements between two (2) abutting properties.

***Setback*** means the required distance the exterior wall of a structure must be located from a lot line, easement, right-of way, adjacent building or other feature as indicated in this ordinance.

***Sewer service area*** means the area expected to be

served by public sanitary sewer and water utility as mapped by East Central Regional Planning Commission.

***Street*** means a dedicated right-of-way affording primary access by pedestrians or vehicles to abutting property.

(1) ***Alley*** means a public thoroughfare that generally affords only a secondary means of access to abutting property.

(2) ***Arterial street*** means a street that is designed to efficiently carry substantial traffic volumes within and through the City. Access to abutting properties is a subordinate arterial street function.

(3) ***Cul-de-sac*** means a short local street having one (1) end open to traffic and being permanently terminated by a vehicle turnaround.

(4) ***Collector street or feeder street*** means a street intended to carry traffic from local streets to an arterial street and to provide circulation within neighborhood areas.

(5) ***Dead-end street*** means any local street, other than a cul-de-sac, which has only one (1) outlet.

(6) ***Limited access street*** means a street to which entrances and exits are provided only at controlled intersections and access is denied to abutting properties.

(7) ***Local street or minor street*** means a street designated primarily to provide direct access to abutting properties, usually residential.

(8) ***Marginal access street or service road*** means a local street parallel and adjacent to a street, which provides access to abutting properties and protection from through traffic.

***Subdivider***. Any person, firm, or corporation, or agent thereof, dividing, or proposing to divide, land resulting in a subdivision, minor land division (certified survey map), or replat.

***Subdivision*** means the division of a lot, parcel, or tract of land by the owners thereof, or their agents:

(1) Where the act of division creates five (5) or more parcels or building sites, exclusive of the remnant parcel; or

(2) Where the act of division creates five (5) or more parcels or building sites, exclusive of the remnant parcel by successive divisions within a period of five (5) years.

***Subdivision drainage plan*** means a topographic map of proposed drainage of each lot and block bounded by a street right-of-way. Elevations to the nearest tenth of one (1) foot shall be shown for future sidewalk elevations, yard drainage, and Interior block drainage. All elevations shall be at established City datum.

***Surveyor*** means a land surveyor registered by the State of Wisconsin.
(Code 1965, §21.03, Ord 200-014, §1, 12-24-01, Ord 140-06, §1, 12-26-06; Ord 163-10, §1, 12-7-10)
**Cross reference(s)** – Definitions and rules of construction generally, §1-2.

**Sec. 17-3. General provisions.**

(a) ***Jurisdiction***. Jurisdiction of these regulations shall include all lands within the corporate limits of the City. The provisions of this ordinance, as they apply to divisions of tracts of land into less than five (5) parcels, shall not apply to:

(1) Transfers on interests in land by will or pursuant to court order;

(2) Leases for a term not to exceed ten (10) years, mortgages, or easements;

(3) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes and all lots meet all specifications required by these regulations, the Zoning Ordinance, or other applicable laws or ordinances;

(4) Cemetery plats made under §157.07, Wis. Stats.; and

(5) Assessors' plats made under §70.27, Wis. Stats., but such assessors' plat shall comply with §236.15(1)(a) through (g) and §236.20(1) and (2)(a) through (e), Wis. Stats.

(b) ***Lot Combinations***. Lots as defined by this chapter shall be combined into one lot according to Division 4. Minor Land Division (Certified Survey Maps).

(c) ***Compliance***. No person, firm or corporation shall combine lots, adjust lot lines, or divide any land within the jurisdictional limits of these regulations which results in a lot combination, lot line adjustment, subdivision, minor land division, or a replat as defined herein; no such lot combination, lot line adjustment, subdivision, minor land division, or replat, as defined herein shall be entitled to recording and no street shall be laid or public improvement made to land without compliance with all requirements of this ordinance and the following:

(1) The provisions of Chapter 236 and §80.08, Wisconsin Statutes;

(2) The rules of the Wisconsin Department of Commerce – Safety and Buildings Division;

(3) The rules of the Division of Highways, Wisconsin Department of Transportation contained in Wis. Adm. Code Chapter Trans 233 for subdivisions that abut a state trunk highway or connecting street;

(4) The rules of the Wisconsin Department of Natural Resources contained in the Wis. Adm. Code for Floodplain Management Program;

5) Comprehensive plans or components of such plans prepared by state, regional, county, or municipal agencies duly adopted by the Plan Commission or Common Council;

(6) All applicable City of Appleton ordinances that are in effect on the date when the Community Development staff files the complete application with the City Clerk;

(7) The City of Appleton Comprehensive Plan; and

(8) The latest edition of the City of Appleton Subdivision Development Policy, and Engineering Division Standards Procedures.

(d) ***Dedication and reservation of lands***. Streets, Highways, Drainageways and Floodplain. Whenever a tract of land to be divided or developed within the jurisdiction of this ordinance encompasses all or any part of a street, highway, drainageway, floodplain, or other public way which has been designated on a duly adopted municipal or regional comprehensive plan or is in any way determined to be such by the Plan Commission or Common Council, said public way shall be dedicated or reserved by the owner in the locations and dimensions indicated on said plan or component and as set forth in this ordinance.

(e) ***Survey monuments***. Before final approval of any land division within the City, the owner shall install survey monuments placed in accordance with the requirements of Chapter 236.15 of the Wisconsin Statutes and as may be required by the City Engineer. The City Engineer or his or her designee may waive the placing of monuments, required under §236.15(b) (c) and (d) Wisconsin State Statutes for a reasonable time, not to exceed one (1) year, on the condition that the subdivider execute a letter of credit or cash escrow to insure the placing of such monuments required by statute.

(f) ***Modification of regulations***. When the Common Council finds that extraordinary hardship or injustice will result from strict compliance with this ordinance, it may vary the terms thereof to the extent deemed necessary and proper to grant relief, provided that the modification meets the following three (3) standards:

(1) The modification is due to physical features of the site or its location.

(2) The modification is the least deviation from this ordinance which will mitigate the hardship.

(3) The modification is not detrimental to the public interest and is in keeping with the general spirit and intent of this ordinance.

(g) ***Enforcement, penalties and remedies***.

(1) ***Violations***. It shall be unlawful to build upon, divide, convey, record, or monument any land division in violation of this ordinance or the Wisconsin Statutes, and no person, firm, or corporation shall be issued a building permit by the City authorizing the building on, or improvement of, any subdivision, minor land division, lot line adjustment, lot combination or replat with the scope of this ordinance not of record as of the effective date of this ordinance until the provisions and requirements of this ordinance have been fully met. The City may institute appropriate action or proceedings to enjoin violations of this ordinance or the applicable Wisconsin Statute.

(2) ***Penalties***.

a. Any person, firm, or corporation who

fails to comply with the provisions of this ordinance shall, upon conviction thereof, forfeit no less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00) plus court costs. Each day a violation exists or continues shall constitute a separate offense.

b. Recordation improperly made has penalties provided in §236.30, Wis. Stats.

c. Conveyance of lots in unrecorded plats has penalties provided for in §236.31, Wis. Stats.

d. Monuments disturbed or not placed have penalties as provided for in §236.32, Wis. Stats.

e. Assessor's plat made under §70.27 of the Wisconsin Statutes may be ordered by the City as a remedy at the expense of the subdivider when a subdivision is created by successive divisions.

(3) ***Issuance of building permits***. The City shall not issue any building permit relating to any parcel of land forming all or any part of lands included in a subdivision, minor land division, lot line adjustment, lot combination or replat, or originally submitted to the City until the Final Plat, certified survey map, or plat of survey and deed has been recorded with the County Register of Deeds and recorded copies of the Final Plat, certified survey map, or plat of survey and deed are filed with the City and until all improvements required by the City have been installed. See also §4-164.

(Code 1965, §21.02, Ord 200-01, §1, 12-24-01, Ord 41-02, §1, 3-25-02; Ord 140-06, §1, 12-26-06; Ord 164-10, §1, 12-7-10)

## ARTICLE II. PLATS

### DIVISION 1. GENERALLY

**Sec. 17-4. Preplatting requirements.**

(a) ***Preplatting conference***. Prior to submitting an application for the approval of a Preliminary Plat within the corporate limits, the subdivider shall schedule a preplattting conference with the City Engineer or his or her designee. The purpose of the preplatting conference is to provide an opportunity for communication between the developer and City staff, regarding the purpose and objectives of these regulations, the comprehensive plan, zoning regulations, erosion control and stormwater management practices, neighborhood plans, and duly adopted plan implementation devices of the City, and to otherwise assist the subdivider in planning the development. The subdivider will receive information regarding required procedures.

(b) ***Required information***. The following information shall be submitted to the City Engineer or his or her designee prior to the preplatting conference:

(1) The sketch plan shall show:

a. The title, scale, north point, and date;

b. The boundaries of the property to be subdivided;

c. Natural characteristics such as drainage, wetlands, steep slopes, hills, ridges, floodplains, environmentally sensitive lands, and wooded areas;

d. Development characteristics such as surrounding streets, existing structures, and available utilities;

e. The proposed layout of streets, blocks, and lots;

f. The proposed location of business, park, and other nonresidential areas;

g. Existing easements and covenants affecting the property; and

h. Where site conditions permit, any tract subdivided into parcels containing one (1) or more acres shall be arranged to allow future resubdivision of any parcels into smaller lots.

(2) The location sketch shall show the relationship of the proposed subdivision to:

a. Traffic arterials;

b. Schools, parks, playgrounds, and other community facilities;

c. Churches and retail facilities;

d. Public transportation;

e. Local zoning districts; and

f. Existing plats.

(Code 1965, §21.16, Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

## DIVISION 2. PRELIMINARY PLAT

### Sec. 17-5. Submission of preliminary plat.

(a) ***Submission***. The subdivider shall submit to the Community Development Department a complete application, which includes the following:

(1) A written application and the necessary fees listed in the City Clerk's office,

(2) Four (4) copies of the Preliminary Plat and a digital copy of the Preliminary Plat file in AutoCAD or compatible form by Electronic Mail, or on Compact Disc prepared by a Registered Land Surveyor, in accordance with the requirements of this ordinance and Chapter 236 of the Wisconsin State Statutes,

(3) Three (3) copies of the Preliminary Drainage Plan prepared by a Licensed Professional Engineer, in accordance with the requirements of this ordinance.

(4) Three (3) copies of the Feasibility Study Plan prepared by a Licensed Professional Engineer, in accordance with the requirements of this ordinance.

(5) Three (3) copies of the Preliminary Stormwater Management Plan prepared by a Licensed Professional Engineer, in accordance with the requirements of City of Appleton Engineering Division.

(b) ***Filing complete application with City Clerk***. After submittal and acceptance of a complete application through initial review by City staff, the Community Development Department staff files the complete application, which includes the written application, one (1) copy of the preliminary plat, one (1) copy of the preliminary drainage plan, one (1) copy of the feasibility study plan, and one (1) copy of the preliminary stormwater management plan with the City Clerk.
(Code 1965, §21.14, Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06 ; Ord 165-10, §1, 12-7-10)

### Sec. 17-6. Preliminary plat review and approval.

(a) ***Review and decision by Plan Commission***. The Plan Commission shall, within sixty (60) days of the date of the filing of a Preliminary Plat with the City Clerk, recommend approval, conditional approval, or rejection of such plat to the Common Council unless the time is extended by agreement in writing between the City and the Owner. The subdivider shall be notified in writing by the Community Development Department of any conditions of approval or the reasons for rejection.

(b) ***Review and decision by Common Council***. After receipt of the Plan Commission's recommendation, the Common Council shall, within ninety (90) days of the date of the filing of a Preliminary Plat with the City Clerk, approve, conditionally approve, or reject such plat unless the time is extended by agreement in writing between the City and the Owner. The subdivider shall be notified in writing by the City Clerk of any conditions of approval or the reasons for rejection.

(c) ***Failure to act***. Failure of the Common Council to act within ninety (90) days, or extension thereof, constitutes an approval of the Preliminary Plat, unless other authorized agencies object to the Preliminary Plat.

(d) ***Effect of approvals***. Approval or conditional approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat, except if the Final Plat is submitted within thirty-six (36) months from the meeting date the Common Council approves the Preliminary Plat and conforms substantially to the Preliminary Plat layout as indicated in §236.11(1) (b) of the Wisconsin State Statutes, and all conditions imposed as part of the Preliminary Plat approval have been satisfied, the Final Plat shall be entitled to approval with respect to such layout. If the Final Plat is not submitted within thirty-six (36) months of the last required approval of the Preliminary Plat, any approving authority may refuse to approve the Final Plat or may extend the time for submission of the Final Plat. If any approving authority refuses to approve the Final Plat or the subdivider fails to submit the Final Plat within the time limit identified in this subsection, the subdivider is required to recommence the procedure for Preliminary Plat approval. An approved Preliminary Plat shall be deemed an expression of approval or conditional approval of the layout submitted and used as a guide in the preparation of the Final Plat which will be subject to further consideration by the Plan Commission and Common Council at the time of its submission.

(e) ***Preliminary plat amendment***. Should the subdivider desire to amend the Preliminary Plat as approved, he or she may resubmit the amended plat which shall follow the same procedure, except for the fee, unless the amendment is, in the opinion of the Community Development Director, of such scope as to constitute a new plat, in which case it shall be refiled.
(Code 1965, §12.15(1), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06 ; Ord 166-10, §1, 12-7-10)

**Sec. 17-7. Technical requirements for preliminary plats.**

(a) ***General***. A Preliminary Plat shall be required for all subdivisions and shall be prepared by a registered land surveyor, in accordance with the requirements of this ordinance and the requirements of Chapter 236 of the Wisconsin State Statutes. The Preliminary Plat shall be prepared on reproducible paper of good quality at a scale of not more than one hundred (100) feet to the inch, and the Preliminary Plat shall show correctly on its face the following information:

(1) Title or name under which the proposed subdivision is to be recorded. Such title shall not be the same or similar to a previously recorded plat, unless the plat is an addition by the same owner to a previously recorded plat and is so stated on the plat;

(2) Property location of the proposed subdivision by government lot, quarter section, township, range, county, and state;

(3) Date, scale, and north arrow;

(4) Names, addresses, and telephone numbers of the owner, subdivider, and land surveyor preparing the plat;

(5) Entire area contiguous to the proposed plat owned or controlled by the subdivider shall be included on the Preliminary Plat even though only a portion of said area is proposed for immediate development. The Director of Community Development may waive this requirement where it is unnecessary to fulfill the purposes and intent of this ordinance and undo hardship would result from strict application thereof; and

(6) General location sketch showing the location of the subdivision within the U.S. Public Land Survey section oriented on the sheet in the same direction as the main drawing.

(b) ***Plat data***. All Preliminary Plats shall show the following:

(1) Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.

(2) Locations of all existing property boundary lines, structures including, the use and setback dimensions to existing and proposed property lines, driveways, lakes, streams and water courses, marshes, wetlands, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto. Delineation of all wetlands, shoreland/wetlands, isolated natural areas and primary environmental corridors shall be based on field staking by an agency or firm certified to make such delineation by the Federal Government or the Wisconsin Department of Natural Resources.

(3) Location, right-of-way width, and names of all existing and proposed streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.

(4) Location of abutting lot lines and names of any adjacent subdivisions, parks, cemeteries and unplatted lands.

(5) Type, width, and two- (2-) foot contour elevation along any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, all to City Datum.

(6) Location, size, and invert elevation of any existing sanitary or storm sewers, culverts and drain pipes, the location of public and private manholes, catch basins, hydrants, electric and communication facilities, whether overhead or underground and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sanitary or storm sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by the direction and distance from the tract, size and invert elevations. All elevations shall be to City Datum.

(7) All lands reserved for future public acquisition or reserved for the common use of property owners within the plat. If

property reserved for common use is located within the subdivision, provisions and plans for its use and maintenance shall be submitted with the plat. A note shall be placed on the face of the plat noting ownership and maintenance of all common use areas and that deed restrictions are on file at the county register of deeds office.

(8) Special restrictions required by the City and any other agency relating to access control along public ways, the provision of planting strips, access restrictions, reservation of wetlands and environmental corridors, more restrictive yard requirements, or special restrictions for environmentally significant lands.

(9) Corporate limit lines within the exterior boundaries of the plat or immediately adjacent thereto.

(10) Existing zoning on and adjacent to the proposed subdivision.

(11) Existing and proposed contours at vertical intervals of not more than two (2) feet where the slope of the ground surface is less than ten percent (10%), and not more than five (5) feet where the slope of the ground surface is ten percent (10%) or more. Elevations shall be marked on such contours based on City Datum.

(12) Normal and high-water elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom, all to City Datum.

(13) Floodland and shoreland boundaries and the contour line lying a vertical distance of two (2) feet above the elevation of the one hundred (100) year recurrence interval flood.

(14) Soil types, and their boundaries, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service shall be submitted with the Preliminary Plat.

(15) Location and results of soil boring tests within the exterior boundaries of the plat conducted in accordance with chapter Comm 85 of the Wisconsin Administrative Code where the subdivision will not be served by public sanitary sewer service. The results of such tests shall be submitted along with the Preliminary Plat.

(16) Location and results of percolation tests within the exterior boundaries of the plat conducted in accordance with chapter Comm 83 of the Wisconsin Administrative Code where the subdivision will not be served by public sanitary sewer service. The results of such tests shall be submitted along with the Preliminary Plat.

(17) Approximate dimensions of all lots together with proposed lot and block numbers. The area in square feet of each lot shall be provided.

(18) Location and approximate dimensions and size of any sites to be reserved or dedicated for parks, playgrounds, drainageways or other public use or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring platting.

(19) Locations and dimensions of all overland flow paths and associated easements for runoff exceeding the capacity of the storm sewer system for flows up to and including the one hundred (100-) year, twenty-four (24) hour duration event. Road rights-of-way are acceptable conveyance facilities for this purpose as long as all properties are provided "dry land access" – no more than 6" of water above the crown of the street.

(20) Approximate radii of all curves.

(21) Any proposed lake and stream access with a small drawing clearly indicating the location of the proposed subdivision in relation to access.

(22) Any proposed lake and stream alterations, modifications, improvements or relocations.

(23) Meander lines if a subdivision borders a lake or stream shore, the distances and bearings of a meander line shall be shown. The meander lines shall not be established less than twenty (20) feet back from the ordinary high water mark of the lake or from the bank of the stream.

(24) Building setback lines or dimensions as listed

in the underlying zoning district or overlay zoning district.

(25) Tabulation of gross area, street area, other dedicated and reserved area, net subdivided area, number of lots, average lot size, typical lot dimensions and lineal feet of streets.

(26) Where the Plan Commission or Director of Community Development or Director of Public Works finds that it requires additional information relative to a particular problem presented by a proposed development in order to review the Preliminary Plat, it shall have the authority to request in writing such information from the subdivider.

(Code 1965, §21.15(2), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

**Sec. 17-8. Technical requirements for preliminary drainage plans.**

(a) ***General***. A Preliminary Drainage Plan shall be required for all subdivisions and shall be based upon the Preliminary Plat of the subdivision and be prepared by a licensed professional engineer, in accordance with the requirements of this ordinance. The Preliminary Drainage Plan shall be prepared and submitted on reproducible paper of good quality at a scale of not more than one hundred (100) feet to the inch and shall show correctly on its face the following information:

(1) The words "Preliminary Drainage Plan" clearly indicated at the top center of the plan;

(2) The title or name under which the proposed subdivision is to be recorded. Such title shall exactly match that of the Preliminary Plat, or phase thereof, to be recorded;

(3) Property location of the proposed subdivision by government lot, quarter section, township, range, county and state;

(4) Date, written scale, graphic scale and north arrow;

(5) A legend identifying any symbols and conventions appearing on the plan;

(6) Names, addresses and telephone numbers of the owner, subdivider and party preparing the drainage plan;

(7) The immediate area contiguous to the proposed plat shall be included on the drainage plan even though only a portion of said area is proposed for immediate development. The Director of Public Works may waive this requirement where it is unnecessary to fulfill the purposes and intent of this ordinance and undo hardship would result from strict application thereof; and

(8) General location sketch showing the location of the subdivision within the U.S. Public Land Survey section oriented on the sheet in the same direction as the main drawing.

(b) ***Drainage plan data***. All Preliminary Drainage Plans shall show the following:

(1) Location, right-of-way width and names of all streets or other public rights-of-way such as alleys or easements and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto;

(2) Locations of all lot and property boundary lines, including block numbers, lot numbers and lengths of the front, rear and side lot lines for all lots falling within the proposed subdivision;

(3) Location of abutting lot lines and names of any adjacent subdivisions, parks, cemeteries and unplatted lands.

(4) Corporate limit lines within the exterior boundaries of the plat or immediately adjacent thereto;

(5) Existing zoning on and adjacent to the proposed subdivision;

(6) Existing and proposed contours at vertical intervals of not more than two (2) feet where the slope of the ground surface is less than ten percent (10%), and not more than five (5) feet where the slope of the ground surface is ten percent (10%) or more. Elevations shall be marked on such contours based on City datum;

(7) Normal and high-water elevations of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet

therefrom, all to City Datum;

(8) Locations of all storm drainage easements, yard drains, drainage structures, lakes, streams and water courses, marshes, wetlands, wooded areas and other significant features within the tract being subdivided or immediately adjacent thereto. Delineation of all wetlands, shoreland/wetlands, isolated natural areas and primary environmental corridors shall be based on field staking by an agency or firm certified to make such delineation by the Federal Government or the Wisconsin Department of Natural Resources;

(9) Existing and proposed spot elevations at all lot corners and at any proposed grade breaks along or within lots of the subdivision;

(10) Flow arrows indicating direction of drainage along all lot lines, street rights-of-way and within the interior of all lots of the subdivision and immediately adjacent thereto;

(11) Location and typical cross section for all proposed primary swales collecting and transporting storm runoff from more than two (2) lots. Primary swales shall be minimum fifteen (15) foot wide areas centered on lot lines and provide a gradual slope toward the swale flow line (low point), unless otherwise allowed by the City Engineer;

(12) Location and typical cross section for all proposed secondary swales collecting and transporting storm runoff from two (2) or fewer lots. Secondary swales shall be minimum five (5) foot wide areas centered on lot lines and provide a gradual slope toward the swale flow line (low point), unless otherwise allowed by the City Engineer;

(13) Locations, descriptions, cross sections and elevations of any berms, trails or other surface features which could impede or affect the conveyance of surface water through or within the subdivision;

(14) Typical details for lot drainage types;

(15) Where the Department of Public Works finds that it requires additional information relative to a particular problem presented by a proposed development in order to review the drainage plan, it shall have the authority to request in writing such information from the subdivider.

(Code 1965, §21.15(3), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

**Sec. 17-9. Technical requirements for feasibility plan.**

(a) ***General***. City of Appleton design procedures shall be used in preparation of the feasibility plan. The feasibility plan shall show the following information:

(1) The words "Feasibility Plan" clearly indicated at the top of the plan.

(2) Date, scale, and north arrow.

(3) Existing and proposed street names, lot boundaries, and lot numbers.

(4) Proposed street right-of-ways and finished-grade pavement slopes and grades.

(5) Existing ponds, streams, rivers, lakes, flowages, wetlands, and floodplain areas.

(6) Identify all existing drainage courses passing through proposed subdivision.

(7) Normal and high-water elevations of all existing ponds, streams, rivers, lakes, flowages, and wetlands located within the exterior boundaries of the plat or located within one hundred (100) feet therefrom.

(8) Location of existing and proposed storm sewer mains, manholes, inlets, yard drains, and culvert structures.

(9) Locations and dimensions of all overland flow paths and associated easements for runoff exceeding the capacity of the storm sewer system for flows up to and including the one hundred (100-) year, twenty-four (24) hour duration event. Road rights-of-way are acceptable conveyance facilities for this purpose as long as all properties are provided "dry land access" – no more than 6" of water above the crown of the street.

(10) Location of existing and proposed sanitary sewer mains and interceptors, lift stations, and manholes.

(11) Proposed storm and sanitary sewer sub

basins, flow direction labels, and flow quantities contributing to system.

(12) Label size, length, and slope for all proposed storm and sanitary sewer mains and interceptors.

(13) Identify proposed storm and sanitary pipe flowline and rim elevations at proposed manholes.

(14) Location of existing and proposed water mains, hydrants, and valves. Label size and length of all proposed water mains.

(15) All calculations supporting storm and sanitary sewer pipe diameter sizes and slopes on feasibility plan.

(16) All geometric data shall be in accordance with current City of Appleton design standards.

(Code 1965, §21.15(4), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

## DIVISION 3. FINAL PLAT

### Sec. 17-10. Submission of final plat.

(a) ***Submission***. The subdivider shall submit to the Community Development Department a complete application, which includes the following:

(1) A written application and the necessary fees listed in the City Clerk's Office,

(2) Four (4) copies of the Final Plat and a digital copy of the Final Plat file in AutoCAD or compatible form by Electronic Mail, or on Compact Disc prepared by a Registered Land Surveyor, in accordance with the requirements of this ordinance and Chapter 236 of the Wisconsin State Statutes,

(3) Three (3) copies of the Final Drainage Plan prepared by a Licensed Professional Engineer, in accordance with the requirements of this ordinance.

(4) Three (3) copies of the Final Stormwater Management Plan prepared by a Licensed Professional Engineer, in accordance with the requirements of City of Appleton Engineering Division.

(b) ***Filing complete application with City Clerk.*** After submittal and acceptance of a complete application through initial review by City staff, the Community Development Department staff files the complete application, which includes the written application, one (1) copy of the final plat, one (1) copy of the final drainage plan, and one (1) copy of the final stormwater management plan with the City Clerk.

(Code 1965, §21.15(5), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06 ; Ord 167-10, §1, 12-7-10)

### Sec. 17-11. Final plat review and approval.

(a) ***Review and decision by Plan Commission***.

(1) The Plan Commission shall examine the Final Plat as to its conformance with the approved Preliminary Plat, any conditions of approval of the Preliminary Plat, this ordinance and all applicable ordinances, rules, regulations, comprehensive plans and comprehensive plan components which may affect it and shall recommend approval, conditional approval or rejection of the plat to the Common Council.

(2) The Plan Commission shall, within thirty (30) days of the date of the filing of a Final Plat with the City Clerk, recommend approval, conditionally approve or rejection of such plat to the Common Council unless the time is extended by agreement in writing between the City and the Owner. The subdivider shall be notified in writing by the Community Development Department of any conditions of approval or the reasons for rejection.

(b) ***Review and decision by Common Council***.

(1) After receipt of the Plan Commission's recommendation, the Common Council shall, within sixty (60) days of the date of the filing of a Final Plat with the City Clerk, approve, conditionally approve or reject such plat unless the time is extended by agreement in writing between the City and the Owner. Any conditions indicated on a conditional approval shall be completed prior to the affixing of City signatures on the Final Plat. The subdivider shall be notified in writing by the City Clerk of any conditions of approval or the reasons for rejection.

(2) Failure of the Common Council to act within sixty (60) days of the date of the filing of the Final Plat with the City Clerk, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.

(c) ***Partial platting***. If permitted by the Common Council, the approved Preliminary Plat may be platted in phases with each phase encompassing only that portion of the approved Preliminary Plat which the subdivider proposes to record at one (1) time; however, it is required that each phase be Final Platted pursuant to Division 3 herein and be designated as a phase of the approved Preliminary Plat. The subsequent phases of the Final Plat shall be filed in accordance with the schedule set forth in the Developer's Agreement as adopted or amended by the Common Council.
(Ord 173-93, §1, 10-19-93; Ord 175-93, §1, 10-19-93; Ord 130-96, §1, 12-18-96, Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06; Ord 168-10, §1, 12-7-10)

**Sec. 17-12. Technical requirements for final plats.**

(a) ***General***. A Final Plat shall be required for all subdivisions and shall be prepared by a registered land surveyor, in accordance with this ordinance and the requirements of Chapter 236 of the Wisconsin State Statutes. The Final Plat shall be prepared on reproducible paper of good quality at a scale of not more than one hundred (100) feet to the inch, and the Final Plat shall show correctly on its face, in addition to the information required by §236.20 and §236.21, Wisconsin State Statutes and §17-26(i) of this ordinance, the following:

(b) ***Plat data***.

(1) Corporate limit lines within the exterior boundaries of the plat or immediately adjacent thereto.

(2) Locations of all existing property boundary lines, structures, including the use and setback dimensions to existing and/or proposed property lines, drives, lakes, streams and water courses, marshes, wetlands, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto. Delineation of all wetlands, shoreland/wetlands, isolated natural areas and primary environmental corridors shall be based on field staking by an agency of firm certified to make such delineation by the Federal Government or the Wisconsin Department of Natural Resources.

(3) Exact street width along the line of any obliquely intersecting street.

(4) Railroad rights-of-way within and abutting the plat.

(5) Exact length, width, bearing, and purpose of utility and/or drainage easements.

(6) All lands reserved for future public acquisition or reserved for the common use of property owners within the Plat. If property reserved for common use is located within the subdivision, provisions and plans for its use and maintenance shall be submitted with the plat. A note shall be placed on the face of the plat noting ownership and maintenance of all common use areas and that deed restrictions are on file at the county register of deeds office.

(7) A note on the plat identifying ownership and maintenance obligations of all drainage swales, easements, retention and detention ponds or other facilities shall be required.

(8) Special restrictions required by the City and any other agency relating to access control along public ways, the provision of planting strips, access restrictions, reservation of wetlands and environmental corridors, more restrictive yard requirements, or special restrictions for environmentally significant lands.

(9) Building setback lines or dimensions as listed in the underlying zoning district or overlay zoning district.

(10) Normal and high-water elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom, all to City Datum.

(11) Floodland and shoreland boundaries and the contour line lying a vertical distance of two (2) feet above the elevation of the one hundred (100) year recurrence interval flood.

(12) Abutting streets lines of adjoining plats shown in their proper location by dotted lines. The width of these streets shall be given and the names of adjoining streets underscored by a dotted line.

(13) The lines of adjoining subdivisions or parcels shown in dotted lines and the names of subdivision or owners of parcels underscored by a dotted line.

(14) Location, name and width of existing right-of-ways.

(15) The boundary lines delineating all blocks with exact lengths and bearings.

(16) Lot lines and their exact lengths and bearings, except that when the lines in any tier of lots are parallel, it shall be sufficient to mark the bearings of the outer lines in one (1) tier thereof. All lots in each block shall be consecutively numbered and lot square footage shall be shown.

(17) Exact length, width, and bearing of all proposed alleys, public ways, railroad, easements, utility rights-of-way, and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.

(18) The boundary lines with exact lengths and bearings and widths of all streets. The name of each street in the plat shall be printed thereon in prominent letters.

(19) Meander lines if a subdivision borders a lake or stream shore, the distances and bearings of a meander line shall be shown. The meander lines shall not be established less than twenty (20) feet back from the ordinary high water mark of the lake or from the bank of the stream.

(20) Locations and dimensions of all overland flow paths and associated easements for runoff exceeding the capacity of the storm sewer system for flows up to and including the one hundred (100) year, twenty-four (24) hour duration event. Road rights-of-way are acceptable conveyance facilities for this purpose as long as all properties are provided "dry land access" – no more than 6" of water above the crown of the street.

(21) Location, including exact dimension, bearing, and size, of any sites to be reserved or dedicated for parks, playgrounds, drainage ways, or other public use, or which are to be used for group housing, retail centers, church sites or other non-public uses not requiring platting.

(22) Any proposed lake or stream alterations, modifications, improvements, or relocations.

(23) Where the Plan Commission or Director of Community Development or Director of Public Works finds that it requires additional information relative to a particular problem presented by the proposed subdivision in review of the Final Plat, it shall have the authority to request in writing such information from the subdivider.

(24) The Wisconsin Department of Transportation (Trans 233) approval number shall be shown on the face of the plat if the property abuts a state trunk highway or connecting highway.

(25) When vision corners are required, they shall be dedicated and not by easement.

(c) ***Property owners association***. The legal instruments creating a property owners association for the

ownership and/or maintenance of common lands in the subdivision shall be filed with the Final Plat.

(d) ***Survey accuracy***. The City Engineer shall examine all Final Plats within the City and may make, or cause to be made by a registered land surveyor under the supervision or direction of the City Engineer, field checks for the accuracy and closure of the survey, the proper kind and location of monuments, and legibility and completeness of the drawing at the subdivider's cost. In addition:

(1) ***Accuracy of survey***. The survey shall be performed by a land surveyor registered in this state and if the error in the latitude and departure closure of the survey or any part thereof is greater than the ratio of 1 in 10,000, the plat may be rejected.

(e) ***Surveying and monumenting***. All Final Plats shall meet all the surveying and monumenting requirements of §236.15, Wisconsin State Statutes, except all newly monumented exterior plat corners, block corners, beginning and ending points of all curves and all angle points in any line shall be monumented with iron monuments at least 30 inches in length and weighing not less than 3.65 lbs/lineal foot set. All lot, outlot, park, and public access corners shall be monumented with iron monuments at least 24 inches in length weighing not less than 1.13 lbs/lineal foot set. In addition, metal fence posts or a similar type of permanent marker approved by the Director of Public Works or his or her designee and provided that it is easily visible shall be placed next to all monuments within the plat.

(1) After all the underground utility work and grading in the Plat is completed all survey monuments within the entire boundary of the Plat shall be re-set to grade or remarked and the accuracy of their position verified. A surveyor licensed in the State of Wisconsin shall provide written certification that the afore described work has been completed prior to the City of Appleton approving the opening of any streets within the Plat.

(f) ***Wisconsin county coordinate system for Outagamie County***. All Final Plats shall comply in all respects with the requirements of Chapter 236.18 of the Wisconsin State Statutes and this ordinance. All land divisions shall be tied directly to two (2) PLSS (Public Land Survey System) corners, either section or quarter section corners, based on remonumentation data on file with the applicable County. The exact bearing and distance shall be verified by field measurements and such corner ties shall be indicated on the land division. All distances and bearings shall be referenced directly to the Wisconsin County Coordinate System for Outagamie County.

(g) ***Easement Statement***. All Final Plats shall include the following language:

SANITARY SEWER, STORM SEWER, DRAINAGE AND WATERMAIN EASEMENT PROVISIONS (List applicable utilities only)

An easement for sanitary sewer, storm sewer, drainage and watermain is hereby granted by:
_____, Grantor, to

THE CITY OF APPLETON, Grantee,

The Grantor, their respective lessees, successors, heirs or assigns, shall have full use and enjoyment of the property referenced above provided that such use does not interfere with Grantee's right to install, replace, operate, maintain and repair said sanitary sewer, storm sewer, drainage, watermain and associated appurtenances. It is further agreed that after maintaining, repairing, replacing or relocating of said sanitary sewer, storm sewer, drainage, watermain and associated appurtenances Grantee shall restore unimproved surfaces such as grass, gravel and dirt on said property, as closely as possible, to the condition previously existing. Grantee shall not be required to restore or compensate for any improvements or improved surfaces such as, but not limited to, curb and gutter, hard pavements, trees, shrubs and landscaping, disturbed as a result of the maintenance activities described herein. Grantee does hereby agree to compensate fully for any damage caused directly or indirectly from said maintenance, repair, replacement or relocation of said sanitary sewer, storm sewer, drainage, watermain and associated appurtenances, that occur outside of the above described easement area. Buildings or any other type of structure shall not be placed over Grantees' facilities or in, upon or over the property within the lines marked "sanitary sewer easement, storm sewer easement, drainage easement and watermain easement" Grantee agrees that it shall give timely notice to the Grantor of routine maintenance work.

The grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.

_____
(Signature)

(h) ***Certificates***. All Final Plats shall provide all the

certificates required by §236.21, Wisconsin State Statutes; and in addition, the surveyor shall certify that he or she has fully complied with all the provisions of this ordinance.

(i) ***Recordation.*** The Final Plat shall only be recorded with the county register of deeds after the certificates of the Wisconsin Department of Administration, of the Common Council, of the surveyor, and those certificates required by §236.21 of the Wisconsin State Statutes are placed on the final plat. The final plat shall be recorded within twelve (12) months from the approval date of the last approving authority and within thirty-six (36) months from the approval date of the first approving authority. Failure to record said Final Plat within twelve (12) months from the approval date of the last approving authority and thirty-six (36) months from the approval date of the first approving authority requires the subdivider to recommence the entire procedure for Final Plat approval.

(j) ***Filing of true copy of plat***. The subdivider shall file five (5) copies of the recorded Final Plat on reproducible paper, plus one (1) digital copy of the Final Plat file in AutoCAD or compatible form on Compact Disc shall be placed on file with the City Clerk. The City Clerk shall retain one (1) copy of the Final Plat and forward the other four (4) copies, plus the Compact Disc to the following Departments:

(1) One (1) copy to the Community Development Department.

(2) One (1) copy, plus the Compact Disc to the Public Works Department.

(3) One (1) copy to the Assessor's Office.

(4) One (1) copy to the Inspections Division.

(Code 1965, §21.17; Ord 4-93, §1, 1-6-93, Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06; Ord 169-10, §1, 12-7-10)

**Sec. 17-13. Technical requirements for final drainage plans.**

(a) ***General***. A final drainage plan shall be required for all subdivisions and shall be based upon the Final Plat of the subdivision and be prepared by a licensed professional engineer, in accordance with the requirements of this ordinance. The final drainage plan shall be submitted to the Department of Public Works within thirty (30) days from the meeting date the Common Council approves the Final Plat unless the time is extended by the Department of Public Works. The Final Drainage Plan shall be prepared and submitted on reproducible paper of good quality at a scale of not more than one hundred (100) feet to the inch and shall show correctly on its face the following information:

(1) The words "Final Drainage Plan" clearly indicated at the top center of the plan;

(2) The title or name under which the proposed subdivision is to be recorded. Such title shall exactly match that of the Final Plat, or phase thereof, to be recorded;

(3) Property location of the proposed subdivision by government lot, quarter section, township, range, county and state;

(4) Date, written scale, graphic scale and north arrow;

(5) A legend identifying any symbols and conventions appearing on the plan;

(6) Names, addresses and telephone numbers of the owner, subdivider and party preparing the drainage plan;

(7) The immediate area contiguous to the proposed plat shall be included on the Drainage Plan even though only a portion of said area is proposed for immediate development. The Director of Public Works may waive this requirement where it is unnecessary to fulfill the purposes and intent of this ordinance and undo hardship would result from strict application thereof;

(8) General location sketch showing the location of the subdivision within the U.S. Public Land Survey section oriented on the sheet in the same direction as the main drawing.

(b) ***Drainage plan data***. All Final Drainage Plans shall show the following:

(1) Location, right-of-way width and names of all streets or other public rights-of-way such as alleys or easements and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto;

(2) Locations of all lot and property boundary lines, including block numbers, lot numbers and lengths of the front, rear and side lot lines for all lots falling within the proposed subdivision;

(3) Location and names of any adjacent subdivisions and owners of record of abutting platted and unplatted lands;

(4) Corporate limit lines within the exterior boundaries of the plat or immediately adjacent thereto;

(5) Existing zoning on and adjacent to the proposed subdivision;

(6) Existing and proposed contours at vertical intervals of not more than two (2) feet where the slope of the ground surface is less than ten percent (10%), and not more than five (5) feet where the slope of the ground surface is ten percent (10%) or more. Elevations shall be marked on such contours based on City Datum.

(7) Normal and high-water elevations of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom, all to City Datum;

(8) Locations of all storm drainage easements, yard drains, drainage structures, lakes, streams and water courses, marshes, wetlands, wooded areas and other significant features within the tract being subdivided or immediately adjacent thereto;

(9) Existing and proposed spot elevations at all lot corners and at any proposed grade breaks along or within lots of the subdivision;

(10) Flow arrows indicating direction of drainage along all lot lines, street rights-of-way and within the interior of all lots of the subdivision and immediately adjacent thereto;

(11) Location and typical cross section for all proposed primary swales collecting and transporting storm runoff from more than two (2) lots. Primary swales shall be minimum fifteen (15) foot wide areas centered on lot lines and provide a gradual slope toward the swale flow line (low point), unless otherwise allowed by the City Engineer;

(12) Location and typical cross section for all proposed secondary swales collecting and transporting storm runoff from two (2) or fewer lots. Secondary swales shall be minimum five (5) foot wide areas centered on lot lines and provide a gradual slope toward the swale flow line (low point), unless otherwise allowed by the City Engineer;

(13) Locations, descriptions, cross sections and elevations of any berms, trails or other surface features which could impede or affect the conveyance of surface water through or within the subdivision;

(14) Typical details for lot drainage types;

(15) Locations and dimensions of all overland flow paths and associated easements for runoff exceeding the capacity of the storm sewer system for flows up to and including the one hundred (100) year, twenty-four (24) hour duration event. Road rights-of-way are acceptable conveyance facilities for this purpose as long as all properties are provided "dry land access" – no more than 6" of water above the crown of the street.

(16) Where the Department of Public Works finds that it requires additional information relative to a particular problem presented by a proposed development in order to review the drainage plan, it shall have the authority to request in writing such information from the subdivider.

(Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

**Sec. 17-14. Technical requirements for "record" drainage plans.**

(a) ***General***. A Record Drainage Plan shall be required for all subdivisions and shall be based upon the Final Drainage Plan of the subdivision. It shall be prepared after final grading activities on the subdivision are complete. It shall be submitted on reproducible paper of good quality at a scale of not more than one hundred (100) feet to the inch and shall include all information required for Final Drainage Plan (§17-13 of this ordinance). In addition, it shall include the following information:

(1) Actual elevation of all corners of all platted lots to an accuracy of 0.01 feet, based upon a field survey conducted after completion of final subdivision grading;

(2) Date when the field survey was conducted;

(3) The words "Record Drainage Plan" clearly indicated at the top center of the plan;

(4) Official seal and signature of a Registered Land Surveyor certifying the accuracy of the Record Drainage Plan;

(Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

## DIVISION 4. MINOR LAND DIVISION (CERTIFIED SURVEY MAPS)

### Sec. 17-15. Submission of minor land division (certified survey map).

(a) ***Presubmittal meeting***. Prior to submitting an application for the approval of a minor land division (certified survey map) within the corporate limits, the subdivider shall consult with the Community Development Department. The purpose of the presubmittal meeting is to provide an opportunity for communication between the subdivider and City staff, regarding the purpose and objectives of these regulations, the comprehensive plan, zoning regulations, erosion control and stormwater management practices, neighborhood plans, and duly adopted plan implementation devices of the City, and to otherwise assist the subdivider in planning the development. The subdivider will receive information regarding required procedures, applications forms and checklists.

(b) ***Submission***. The subdivider shall submit to the Community Development Department a complete application, which includes the following:

(1) A written application and the necessary fees listed in the City Clerk's Office,

(2) Four (4) copies of the certified survey map and a digital copy of the certified survey map file in AutoCAD or compatible form by electronic mail, or on compact disc prepared by a registered land surveyor, in accordance with the requirements of this ordinance and Chapter 236 of the Wisconsin State Statutes,

(3) Two (2) copies of the Final Drainage Plan prepared by a Licensed Professional Engineer, in accordance with the requirements of this ordinance, unless this requirement is waived by the Director of Public Works or his or her designee.

(4) Two (2) copies of the Final Stormwater Management Plan prepared by a Licensed Professional Engineer, in accordance with the requirements of City of Appleton Engineering Division, unless this requirement is waived by the Director of Public Works or his or her designee.

(c) ***Filing complete application with City Clerk.*** After submittal and acceptance of a complete application through initial review by City staff, the Community

Development Department staff files the complete application, which includes the written application, one (1) copy of the certified survey map, one (1) copy of the final drainage plan unless this requirement is waived under §17-15(b)(3), and one (1) copy of the final stormwater management plan unless this requirement is waived under §17-15(b)(4) with the City Clerk.
(Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06; Ord 170-10, §1, 12-7-10)

**Sec. 17-16. Minor land division (certified survey map) review and approval.**

(a) ***Review and decision by Community Development Department***. The Community Development Department shall, within sixty (60) days of the date of the filing of a certified survey map with the City Clerk, approve, approve conditionally or reject such certified survey map unless the time is extended by agreement in writing between the Community Development Department and the Owner. The subdivider shall be notified in writing by the Community Development Department of any conditions of approval or the reasons for rejection.
(Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

**Sec. 17-17. Technical requirements for minor land divisions (certified survey map).**

(a) ***General***. A certified survey map shall be required for all minor land divisions and shall be prepared by a registered land surveyor in accordance with this ordinance and the requirements of Chapter 236 of the Wisconsin State Statutes. The certified survey map shall be provided digitally by electronic mail, or on compact disc in an AutoCAD readable format and be prepared on reproducible paper of good quality at a scale not more than five hundred (500) feet to the inch, and the certified survey map shall show correctly on its face, in addition to the information required by §236.15(1), §236.21 and §236.34, Wisconsin State Statutes and §17-26(i) the following:

(1) Date, scale, and north arrow;

(2) Names, addresses and telephone numbers of the owner, subdivider and surveyor preparing the certified survey map;

(3) Entire area contiguous to the proposed certified survey map owned or controlled by the subdivider shall be included on the certified survey map even though only a portion of said area is proposed for immediate development. The Director of Community Development may waive this requirement where it is unnecessary to fulfill the purposes and intent of this ordinance and undo hardship would result from strict application thereof;

(4) A statement that conforms substantially to the following:

This Certified Survey Map is a (portion or all) of tax parcel number ___.

The property owner(s) of record is/are ___.

This Certified Survey Map is contained wholly within the property described in the following recorded instrument(s) ___.

(5) Exact length and bearing of the exterior boundaries of the proposed minor subdivision referenced to a minimum of two (2) corners established in the U.S. Public Land Survey and the total acreage encompassed thereby;

(6) Locations of all existing property boundary lines, structures, including the use and setback dimensions to existing and/or proposed property lines, drives, lakes, streams and water courses, marshes, wetlands, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto. Delineation of all wetlands, shoreland/wetlands, shall be based on field staking by an agency or firm certified to make such delineation by the Federal Government or the Wisconsin Department of Natural Resources. Delineation of other features including rock outcrops, wood areas, isolated natural areas and primary environmental corridors is required but may be shown on an separate existing natural features page attached to the certified survey map.

(7) Location, right-of-way width and names of all existing and proposed streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the certified survey map or immediately adjacent thereto.

(8) Location of abutting lot lines and names of any adjacent subdivisions, parks, cemeteries and unplatted lands;

(9) Recorded easements shown on the certified survey map shall list the document number in the easement area shown on the map. If an easement is proposed with the certified survey map and the City of Appleton is not the Grantee, an accompanying statement shall be shown on the certified survey map identifying the Grantee and the type and/or purpose of the easement. New proposed easements to the City of Appleton shall be granted by a separate easement document and drafted by the City of Appleton with the typical easement language required by the City of Appleton, Department of Public Works. Easement lines shall be labeled with bearings and distances if not parallel to lot or boundary lines. They shall also be referenced to lot lines by bearing and distance with sufficient information to accurately locate the easement within the proposed lots.

(10) Building setback lines or dimensions as listed in the underlying zoning district or overlay zoning district.

(11) Normal and high-water elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the certified survey map or located within one hundred (100) feet therefrom, all to City Datum.

(12) Floodland and shoreland boundaries and the contour line lying a vertical distance of two (2) feet above the elevation of the one hundred (100) year recurrence interval flood.

(13) Square footage of each lot shall be provided.

(14) Existing zoning on and adjacent to the proposed subdivision.

(15) Meander lines if a minor land division borders a lake or stream shore, the distances and bearings of a meander line shall be shown on the certified survey map. The meander lines shall not be established less than twenty (20) feet back from the ordinary high water mark of the lake or from the bank of the stream.

(16) A note on the certified survey map noting ownership and maintenance obligations of all drainage swales, easements, retention and detention ponds or other facilities shall be required.

(17) Special restrictions required by the City and any other agency relating to access control along public ways, the provision of planting strips, access restrictions, reservation of wetlands and environmental corridors, more restrictive yard requirements, or special restrictions for environmentally significant lands.

(18) The boundary lines with exact lengths and bearings and widths of all streets. The name of each street in the certified survey map shall be printed thereon in prominent letters.

(19) Where the City finds that it requires additional information relative to a particular problem presented by the proposed minor land division in review of the certified survey map, it shall have the authority to request in writing such information from the subdivider.

(20) All new lots being created shall be drawn to full scale without break lines. Multiple pages may be used to illustrate each lot. If multiple pages are used to illustrate lots, the cover page of the certified survey map shall still show the entire exterior boundary of the proposed certified survey map at whatever scale is necessary.

(21) If required, the Wisconsin Department of Transportation (Trans 233) approval number shall be shown on the face of the certified survey map if the property abuts a state trunk highway or connecting highway.

(22) A statement of restricted access shall be shown on the face of the certified survey map if the parcels being subdivided abut a restricted access street.

(23) When vision corners are required, they shall be dedicated and not by easement.

(b) ***Monumenting***. All certified survey maps shall be monumented in accordance with Wisconsin State Statutes §236.34 (1), except newly placed monuments shall be at least 24 inches in length weighing not less than 1.13lbs/lineal foot set. In addition, metal fence posts or a similar type of permanent marker approved by the Director of Public Works or his or her designee provided that it is easily visible shall be placed next to all monuments within a certified survey map in an undeveloped area.

(c) ***Wisconsin county coordinate system for Outagamie County***. All certified survey maps shall be tied directly to two (2) PLSS (Public Land Survey System) corners, either section or quarter section corners, based on remonumentation data on file with the applicable county. The exact bearing and distance shall be verified by field measurements and such corner ties shall be indicated on the land division. All distances and bearings shall be referenced directly to the Wisconsin County Coordinate System for Outagamie County.

(d) ***Certificates***. The following certificates shall appear on the certified survey map:

(1) The Surveyor shall certify on the certified survey map that he or she has fully complied with all the provisions of this ordinance.

(2) The Mayor or his or her designee, after a recommendation by the reviewing agencies, shall certify approval on the certified survey map.

(3) The owner's certificates and mortgagee's certificates in substantially the same form as required by §236.21(2)(a) Wisconsin State Statutes.

(4) Taxes paid certificate as required by §236.21(3) of the Wisconsin State Statutes.

(e) ***Recordation***. The subdivider shall record the certified survey map with the county register of deeds within twenty-four (24) months from the written approval date by the Community Development Department. Failure to record the certified survey map within twenty-four (24) months from the written approval date by the Community Development Department requires the subdivider to recommence the entire procedure for certified survey map approval.

(f) ***Filing of true copy of certified survey map***. The subdivider shall file five (5) copies of the recorded certified survey map on reproducible paper, plus one (1) digital copy of the certified survey map file in AutoCAD or compatible form on compact disc with the City Clerk. The City Clerk shall retain one (1) copy and forward the other four (4) copies, plus the compact disc to the following departments:

(1) One (1) copy to the Community Development Department.

(2) One (1) copy, plus the compact disc to the Public Works Department.

(3) One (1) copy to the Assessor's Office.

(4) One (1) copy to the Inspections Division.

(Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06; Ord 171-10, §1, 12-7-10)

**Sec. 17-18. Technical requirements for drainage plans for minor land divisions (certified survey map).**

(a) ***General***. A Drainage Plan shall be required for all certified survey maps and be prepared by a licensed professional engineer, in accordance with the requirements of this ordinance unless this requirement is waived by the Public Works Director or his or her designee. The Drainage Plan shall be prepared and submitted on reproducible paper of good quality and in an AutoCAD compatible computer file format at a scale of not more than two hundred (200) feet to the inch and shall show correctly on its face the following information:

(1) The words "Drainage Plan" clearly indicated at the top center of the map;

(2) The certified survey map number associated with the drainage plan;

(3) Property location of the proposed map by government lot, quarter section, township, range, county and state;

(4) Date, written scale, graphic scale and north point;

(5) A legend identifying any symbols and conventions appearing on the plan;

(6) Names and addresses of the owner, subdivider and party preparing the drainage plan;

(7) The immediate area contiguous to the proposed certified survey map shall be included on the Drainage Plan even though only a portion of said area is proposed for immediate development. The City Engineer may waive this requirement where it is unnecessary to fulfill the purposes and intent of this ordinance and undo hardship would result from strict application thereof.

(b) ***Drainage plan data***. All Drainage Plans shall show the following:

(1) Location, right-of-way width and names of all streets or other public rights-of-way such as alleys or easements and all section and quarter section lines within the exterior boundaries of the certified survey map or immediately adjacent thereto;

(2) Locations of all lot and property boundary lines, including lot numbers and lengths of the front, rear and side lot lines for all lots falling within the proposed map;

(3) Location of abutting lot lines and names of any adjacent subdivisions, parks, cemeteries and unplatted lands;

(4) Corporate limit lines within the exterior boundaries of the map or immediately adjacent thereto;

(5) Existing and proposed contours at vertical intervals of not more than two (2) feet where the slope of the ground surface is less than ten percent (10%), and not more than five (5) feet where the slope of the ground surface is ten percent (10%) or more. Elevations shall be marked on such contours based on City Datum. This requirement may be waived by the Public Works Director if parcels created are fully developed and no grade changes are intended. At least two (2) permanent bench marks shall be located in the immediate vicinity of the map; the location of the bench marks shall be indicated on the map together with their elevations referenced to City Datum and the monumentation of the bench marks clearly and completely described.

(6) Normal and high-water elevations of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the map or located within one hundred (100) feet therefrom, all to City Datum;

(7) Locations of all storm drainage easements, yard drains, drainage structures, lakes, streams and water courses, marshes, wetlands, wooded areas and other significant features within the tract being subdivided or immediately adjacent thereto;

(8) Existing and proposed spot elevations at all lot corners and at any proposed grade breaks along or within lots of the certified survey map;

(9) Flow arrows indicating direction of drainage along all lot lines, street rights-of-way and within the interior of all lots of the subdivision and immediately adjacent thereto;

(10) Location and typical cross section for all proposed primary swales collecting and transporting storm runoff from more than two (2) lots. Primary swales shall be minimum fifteen (15) foot wide areas centered on lot lines and provide a gradual slope toward the swale flow line (low point), unless otherwise allowed by the City Engineer;

(11) Location and typical cross section for all proposed secondary swales collecting and transporting storm runoff from two (2) or fewer lots. Secondary swales shall be minimum five (5) foot wide areas centered on lot lines and provide a gradual slope toward the swale flow line (low point), unless otherwise allowed by the City Engineer;

(12) Locations, descriptions, cross sections and elevations of any berms, trails or other surface features which could impede or affect the conveyance of surface water through or within the tract being subdivided;

(13) Soil types, and their boundaries, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service shall be submitted along with the drainage plan;

(14) Location and results of soil boring tests within the exterior boundaries of the certified survey map conducted in accordance with chapter Comm 85, of the Wisconsin Administrative Code where the minor land division will not be served by public sanitary sewer service. The results of such tests shall be submitted along with the certified survey map;

(15) Location and results of percolation tests within the exterior boundaries of the certified survey map conducted in accordance with chapter Comm 83, of the Wisconsin Administrative Code where the minor land division will not be served by public sanitary sewer service. The results of such tests shall be submitted along with the certified survey

map;

(16) Locations and dimensions of all overland flow paths and associated easements or runoff exceeding the capacity of the storm sewer system for flows up to and including the one hundred (100) year, twenty-four (24) hour duration event. Road rights-of-way are acceptable conveyance facilities for this purpose as long as all properties are provided "dry land access" – no more than 6" of water above the crown of the street.

(17) Where the Department of Public Works finds that it requires additional information relative to a particular problem presented by a proposed certified survey map in order to review the Drainage Plan, it shall have the authority to request in writing such information from the subdivider;

(18) Where the Department of Public Works find that it does not need all the above listed items to review the Drainage Plan, it may waive the requirement for those requirements.

(Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

## DIVISION 5. REPLAT

**Sec. 17-19. Replat.**

(a) Except as provided in §70.27(l), Wis. Stats., when it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in §236.36 through §236.445 of the Wisconsin Statutes. The subdivider, or person wishing to replat, shall then proceed as specified for Preliminary and Final Plats.

(b) The City Clerk shall schedule a public hearing before the Plan Commission when a Preliminary Plat of a replat of lands within the City or its extraterritorial jurisdiction limits is filed and shall cause notices of the proposed replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within two hundred (200) feet of the exterior boundaries of the proposed replat.

(Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

## DIVISION 6. EXTRATERRITORIAL PLAT APPROVAL JURISDICTION

### Sec. 17-20. Extraterritorial plat approval jurisdiction.

(a) ***General***. When the land to subdivided lies within three (3) miles of the corporate limits of the City, the subdivider shall proceed as specified in the following sections:

(1) §17-4 through §17-6 relating to Preliminary Plat submission and approval.

(2) §17-10 and §17-11 relating to Final Plat submission and approval.

(3) Established fees listed in the City Clerk's Office.

(Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

## ARTICLE III. LOT LINE ADJUSTMENT

## DIVISION 1. LOT LINE ADJUSTMENT

### Sec. 17-21. Lot line adjustment review and approval.

(a) ***Pre-Application***. Prior to submitting an application for the approval of a Lot Line Adjustment within the corporate limits, the petitioner shall consult with the Community Development Department. The purpose of the consultation is to provide two-way communication between the petitioner and City staff, regarding the purpose and objectives of these regulations, the comprehensive plan, zoning regulations, erosion control and stormwater management practices, neighborhood plans, and duly adopted plan implementation devices of the City, and to otherwise assist the petitioner in planning the development. The petitioner will receive information regarding required procedures, applications forms and checklists.

(b) ***Use of a Lot Line Adjustment Application***. A Lot Line Adjustment is an adjustment or relocation of property line(s) between adjacent lots that does not result in the creation of additional lots, from what was originally platted or mapped. The Director of Community Development has the discretion of requiring a certified survey map if the lot line adjustment involves unplatted land and/or has a complicated metes and bounds description.

(c) ***Submission***. The subdivider shall submit to the Community Development Department a complete application, which includes the following:

(1) A written application and the necessary fees listed in the City Clerk's office,

(2) One (1) copy of the plat of survey and a digital copy of the plat of survey file in AutoCAD or compatible form by electronic mail, or on compact disc prepared by a registered land surveyor, in accordance with the requirements of this ordinance and Chapter A-E7 of the Wisconsin Administrative Code.

(d) ***Referral to city departments***. After submittal and acceptance of a complete application through initial review by City staff, the Community Development Department shall forward the complete application to the following departments and alderpersons by electronic mail for their review and comment:

(1) One (1) copy to the City Clerk.

(2) One (1) copy to the City Assessor.

(3) One (1) copy to the City Finance Director.

(4) One (1) copy to the alderperson of the district.

(5) One (1) copy to the City Surveyor.

(e) ***Review and decision by Community Development Department***. The Lot Line adjustment will be reviewed administratively by the Community Development Department. A lot line adjustment may be approved pursuant to this ordinance; provided, no zoning or building code violations shall result from the lot line(s) adjustment. The petitioner shall be notified in writing by the Community Development Department of any conditions of approval or the reasons for rejection.
(Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06; Ord 172-10, §1, 12-7-10; Ord 173-10, §1, 12-7-10)

**Sec. 17-22. Technical requirements for lot line adjustments.**

(a) ***General***. A plat of survey shall be required for all lot line adjustments and shall be prepared by a registered land surveyor in accordance with this ordinance and show correctly on its face, in addition to the information required by Chapter A-E7 of the Wisconsin Administrative Code the following information:

(1) Date, legend, scale, surveyor's certificate, and north arrow;

(2) Separate legal descriptions of each existing lot(s) included in the lot line adjustment;

(3) Separate revised legal descriptions that accurately reflect the new legal descriptions of the proposed lots as they will exist after the lot line adjustment is recorded;

(4) Names and addresses of the owner and land surveyor preparing the plat of survey map;

(5) Exterior and interior boundary line dimensions and bearing;

(6) Numbers of the lots and outlots;

(7) Square footage of each lot or outlot;

(8) Location, use, and setback dimensions to existing and proposed property line of all existing structures;

(9) Location, right-of-way width and names of all existing and proposed streets, alleys, easements or other public ways, railroad and utility rights-of-way; and

(10) Where the Director of Community Development finds that additional information relative to a particular problem presented by a proposed lot line adjustment is required in order to review the lot line adjustment, he or she shall have the authority to request in writing such information from the petitioner.

(b) ***Monumenting***. New lot corners shall be monumented in accordance §236.34(1)(b), Wisconsin State Statutes, except that newly placed monuments shall be at least twenty-four (24) inches in length weighing not less than 1.13/lbs/lineal foot set.

(c) ***Recordation***. Upon written approval by the Community Development Department, the petitioner shall record the deed or other appropriate instrument and attach the plat of survey as an exhibit to the deed or instrument with the County Register of Deeds within twelve (12) months from the written approval date or the approval will expire. Failure to record the deed or instrument and attach the plat of survey as an exhibit to the deed or instrument within twelve (12) months from the written approval date by the Community Development Department requires the petitioner to recommence the entire procedure for Lot Line Adjustment approval.

(d) ***Filing of recorded plat of survey and deed or instrument and property tax payment***. The petitioner shall submit one (1) recorded copy of the deed or instrument and the plat of survey exhibit with the Community Development Department and shall submit evidence of property tax payment for all lots involved in the lot line adjustment to the City of Appleton Finance Department must be submitted the Community Development Department, which will constitute final City approval.
(Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06 ; Ord 174-10, §1, 12-7-10)

## ARTICLE IV. DESIGN STANDARDS

### Sec. 17-23. Compliance with City standards.

All divisions of land Lot Line Adjustments, and Lot Combinations shall conform to the comprehensive plan, the Zoning Ordinance, the Official Map, this ordinance and all other pertinent ordinances, regulations, resolutions or plans which are adopted by the City.
(Code 1965, §21.11(1)(a), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

### Sec. 17-24. Compliance with State standards.

All subdivisions shall conform to:

(1) The provisions of Chapter 236 Wisconsin State Statutes, except that this ordinance shall prevail where it imposes higher standards.

(2) The rules of the Division of Highways, Wisconsin Department of Transportation contained in Wis. Adm. Code Chapter Trans 233 relating to safety of access and the preservation of the public interest and investment in the streets if the subdivision or any lot contained therein abuts on a state trunk highway or connecting street.

(Code 1965, §21.11(1)(b), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

### Sec. 17-25. Streets.

(a) ***General considerations***. Streets shall be designed and located in relation to:

(1) Existing and planned streets.

(2) Topographic considerations, drainage and other natural features, to produce usable lots and streets of reasonable gradient.

(3) The public convenience and safety.

(4) The future circulation needs of nearby lands.

(5) The proposed uses of land to be served.

(b) ***Streets to conform to city plans***. Street layouts, widths, grades and locations shall conform to the official map and the City of Appleton's Comprehensive Plan and Arterial Plan.

(c) ***Arrangement***.

(1) ***Arterial streets***. Arterial streets shall be arranged so as to provide ready access to centers of employment, centers of governmental activity, community retail areas, community recreation and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of arterial streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect.

(2) ***Collector streets***. Collector streets shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the arterial street and highway system and shall be properly related to the multimodal transportation system, to special traffic generators such as schools, churches and retail centers and other concentrations of population and to the major streets to which they connect.

(3) ***Local streets***. Local streets shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems, and to require the minimum street area necessary to provide for safe and convenient access to abutting property.

(4) ***Marginal access streets***. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Council may require a marginal access street, approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land.

(d) ***Width***. The right-of-way of all streets shall be of the width specified on the Official Map or Comprehensive Plan, or if no width is specified there, they shall be not less than the width specified in the following table:

| *Type* | *Right-of-Way (feet)* |
|---|---|
| Arterial | 80 – 100 |
| Collector Streets | 66 – 80 |
| Local Streets | 60 |
| Cul-de-sacs | 60 |
| Marginal Access Streets | 40 – 60 |
| Alleys | 40 |

(e) ***Street names***. New streets names shall not duplicate in fact or sound substantially similar to the names of existing streets in the City or its extraterritorial jurisdiction, but streets that are continuations of others already in existence and named shall bear the name of the existing street, except if the continuation changes alignment approximating ninety (90) degrees from its original direction, then a new name may be required by the Common Council after recommendation by the Plan Commission.

(f) ***Dead-end streets*** where permitted shall be designed in accordance with the Municipal Fire Prevention and Protection Code.

(g) ***Cul-de-sacs***. Streets designed to have one (1) end permanently closed shall not exceed five hundred (500) feet in length from centerline of intersecting street to center of turnaround and shall terminate with a turnaround of not less than one hundred and ten (110) feet in diameter of right-of-way and a roadway turnaround of ninety (90) feet in diameter. The Public Works Director may waive this requirement where it is unnecessary to fulfill the purposes and intent of this ordinance and undo hardship would result from strict application thereof. A temporary cul-de-sac may be placed at the end of a street that will be extended: provision shall be made for reversion of the excess turnaround right-of-way to the adjoining properties when the street is extended

(h) ***Reserve strips***. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the City under conditions approved by the Common Council.

(i) ***Half streets***. Half streets shall not be permitted except:

(1) To complete a street, the other half of which is already dedicated and accepted; or

(2) To conform to the Arterial Plan or Official Map.

(j) ***Intersections***.

(1) Streets shall intersect as nearly as possible at right angles. Not more than two (2) streets shall intersect at one (1) point unless approved by the Common Council after recommendation by the Plan Commission.

(2) Street jogs with centerline offsets of less than one hundred twenty-five (125) feet are prohibited. Where streets intersect arterials, their alignment shall be continuous, except the Director of Public Works or his or her designee may waive this requirement.

(k) ***Dead-end and "T" alleys***. Are prohibited.

(l) ***Special streets***. Where parkways or special types of streets are involved, the Common Council may apply special standards to be followed in their design.

(m) ***Marginal access streets***. Where a marginal access street has been provided, the Common Council may require that such a street be located at a distance from the major street or easement suitable for the appropriate use of the intervening land for:

(1) Park purposes.

(2) Motor vehicle parking, business or industry, in appropriate zones.

(3) Other provisions for the adequate protection of residential properties and the separation of through and local traffic. Such distances shall be determined with due regard for the requirements of approach grades and future grade separation.

(Code 1965, §21.11(2), (3), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06; Ord 175-10, §1, 12-7-10)

**Cross reference(s)--**Streets, §16-36 et seq.

**Sec. 17-26. Lots.**

(a) ***Generally***. The size, shape and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

(b) ***Dimensions***.

(1) Widths and areas of lots shall not be less than that provided for the tract to be subdivided in the City Zoning Ordinance.

(2) Residential lots to be served by individual sewage disposal facilities shall also comply with the rules of Wisconsin Administrative Code.

(3) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for off-street service and parking facilities required by the City Zoning Ordinance.

(c) ***Frontage***.

(1) All lots shall abut on a public street or an approved access.

(2) Double frontage lots shall not be permitted except as required by the Common Council where they are desirable to provide separation of development from traffic arterials or inharmonious uses, or to overcome disadvantages of topography or situation. A planting screen easement of at least twenty (20) feet, and across which there shall be no right of access, may be required along the line of lots abutting such traffic arteries or other inharmonious use.

(d) ***Side lot lines***. Side lot lines shall be at right angles or radial to the street line or substantially so. Along curvilinear streets, side lot lines so formed shall form a lot having not less than twenty-five (25) feet in width at the curbline.

(e) ***Residential lots backing on arterials***. Residential lots backing on Highway 41, Highway 441 and other arterial streets as determined by the City shall be platted with extra depth to permit generous distance between buildings and such traffic ways, such lot depth being a minimum of one hundred fifty (150) feet. In addition, residential lots backing on Highway 41 and Highway 441 shall be platted with either an earthen berm or soundproof fence, acceptable to the City in height and materials, and shall be in place prior to home construction.

(f) ***Corner lots***. Corner lots shall have sufficient width to provide usable rear yards as well as to permit full building setbacks from all streets as set forth in the Zoning Ordinance or other regulations.

(g) ***Proportions***. Excessive lot depth in relation to width shall be avoided. A proportion of two (2) length to one (1) width shall normally be considered a desirable maximum for lot widths of sixty (60) feet or more.

(h) ***Lots to follow municipal boundaries***. Lots shall follow municipal boundaries whenever practicable, rather than cross them.

(i) ***Land suitability***. No land shall be subdivided for residential, commercial, or industrial use which is determined to be unsuitable for the proposed use by the Plan Commission or Common Council for reasons of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision, minor land division or of the municipality. In addition:

(1) Floodlands. Subdivided lots shall have at least fifty percent (50%) of the minimum required lot area, based upon the respective zoning district, at least two (2) feet above the elevation of the one hundred (100) year reoccurrence interval flood.

(2) Subdivided lots shall have at least fifty percent (50%) of the minimum required lot area, based upon the respective zoning district, in slopes of less than twelve percent (12%). Lands having a slope of twenty percent (20%) or greater shall be maintained in permanent open space use, unless the following items are submitted to the City of Appleton Public Works Department for review and approval prior to the issuance of a building permit: The application for a building permit shall be accompanied by a Drainage and Grading Plan, an Erosion Control Plan, a Plot Plan, and a Building Foundation Design Plan prepared by a licensed professional civil engineer or structural engineer registered in the State of Wisconsin, trained and experienced in the practice of geotechnical engineering. The engineer shall provide the design and supervision such that, in the engineer's opinion, the development does not and will not compromise in any way the stability of the soil on site or soil on lands which are adjacent, and will not cause or contribute to such soils becoming susceptible to land slip, land slide, rock fall, mud flow, debris flow, erosion, slumping, settling or other such occurrence.

a. Any subdivided lot containing slopes of twenty percent (20%) or greater shall be identified on the face of the Final Plat or Certified Survey Map as being subject to the requirements and restrictions described above.

(3) Lands made, altered or filled with non-earth materials within the preceding twenty (20) years shall not be divided into building sites which are to be served by soil absorption sewage disposal systems.

(4) Lands made, altered or filled with earth within the preceding seven (7) years shall not be divided into building sites which are to be

served by on-site soil absorption sewage disposal systems.

(5) Reserve strips may not be created by any division of land.

(6) Lands having bedrock within six (6) feet of the natural undisturbed surface shall not be divided into building sites to be served by on-site soil absorption sewage disposal systems.

(7) Lands having groundwater within six (6) feet of the natural undisturbed surface shall not be divided into building sites to be served by soil absorption sewage disposal systems. Lands drained by farm drainage tile or farm ditch systems shall not be divided into building sites to be served by on-site soil absorption sewage disposal systems.

(8) The Plan Commission, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for residential, commercial, industrial, or institutional use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he or she so desires. Thereafter, the Plan Commission may affirm, modify, or withdraw its determination of unsuitability.

(j) ***Existing flora***. The subdivider shall make every effort to protect and retain all healthy trees within a subdivision, minor land division, or lot line adjustment to the mutual agreement of the City and Developer. The City Forester shall review the conditions of the trees. Any trees identified for protection and preservation during construction shall be done so in accordance with sound conservation practices, possibly including the preservation of trees by well islands or retaining walls whenever abutting grades are altered.
(Code 1965, §01.11(4); Ord 113-90, §1, 12-19-90, Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

**Sec. 17-27. Easements.**

(a) Easements shall be provided for any surface, underground or overhead utility service, including stormwater drainage, where required by the Common Council. Such easements shall be at least of sufficient width to accommodate the installation and future maintenance of the facility and shall be located to provide continuity of alignment throughout the area served.

(b) Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose. Wherever possible, it is desirable that drainage be maintained by an open channel with landscaped banks. Open channels shall include an additional area of at least fifteen (15) feet wide adjoining both edges of the established floodplain.
(Code 1965, §21.11(5), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

**Sec. 17-28. Drainage ways.**

(a) The subdivider shall make provisions for surface water runoff as required on the drainage plan by cutting and filling the drainage ways to the grades, elevations and widths as set forth on the plan. The drainage ways shall be protected from erosion by seeding and mulching and other additional erosion control steps that may be required by this ordinance. The drainage plan shall be deemed to be a covenant running with the land. No person shall alter, change or modify the approved drainage plan by regrading, construction or otherwise, without the prior written approval of the City Engineer. Such approval shall be conditioned upon the provision of suitable drainage alternatives.

(b) The obstruction of drainage flow at either primary drainage swales or along the lot line drainage is prohibited.
(Code 1965, §21.12(3); Ord 79-89, §1, 6-21-89; Ord 99-92, §1, 9-2-92, Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

## ARTICLE V. DEDICATIONS AND RESERVATIONS

### Sec. 17-29. Dedication of public sites and open spaces.

In order that adequate open spaces and sites for public uses may be properly located and preserved as the community develops, and in order that the cost of providing park and recreation sites and facilities necessary to serve the additional families brought into the community by subdivision development may be most equitably apportioned on the basis of the additional need created by the individual subdivision or minor land division development, the following provisions are established:

(a) ***Reservation of potential sites***. In the design of the subdivision or minor land division, consideration shall be given to the adequate provision of and correlation with such public sites or open areas. Where it is determined by the Plan Commission that a portion of that subdivision or minor land division is required for such public sites or open spaces, the subdivider may be required to reserve such area for a period not to exceed three (3) years, after which the City shall either acquire the property or release the reservation.

(b) ***Dedication of sites***.

(1) Within the corporate limits of the City, the subdivider shall provide and dedicate to the public either a minimum of five (5) acres of land to provide for park and recreation needs of the community as required by the adopted comprehensive plan or as determined by the Plan Commission in conjunction with the subdivider and in an amount of land to be determined in accordance with the zoning classification intended for each lot in the subdivision as specified in the following table:

| *Types of Dwelling Units and Zones* | *Percent Allocation of Total Gross Residential Acreage* |
|---|---|
| R-1A zone, one-family | 5 |
| R-1B and R-1C zone, one-family | 6 |
| R-2 zone, two-family | 8 |
| R-3 zone, apartment | 12 |
| PD (Planned Development Overlay – Residential) | 12 |

(2) Where such dedication is not feasible or is not compatible with the comprehensive plan, the subdivider shall in lieu thereof pay to the City a fee according to the zoning classification intended for each lot in the subdivision as specified in the following table:

| *Types of Dwelling Units and Zones* | *In Lieu of Payment (per unit)* |
|---|---|
| R-1A zone, one-family | $300.00 |
| R-1B zone, one-family | $300.00 |
| R-1C zone, one-family | $300.00 |
| R-2 zone, two-family | $200.00 |
| R-3 zone, apartment | $150.00 |
| PD (Planned Development Overlay – Residential) | $150.00 |

(3) Such fees shall be held in a nonlapsing fund to be used exclusively for immediate or future site acquisition or capital improvement.

(c) ***Proportionate payment in lieu of dedication***. Where such dedication is not feasible or compatible with the comprehensive plan, the subdivider shall, in lieu thereof, pay to the City a fee equivalent to the value of the required dedication. Such fee should be distributed and paid as follows:

(1) No payment shall be required for a lot created by the subdivision of land under this ordinance on which a residential structure already exists, or which is a residential parcel in excess of one hundred twenty (120) acres and not intended for immediate sale or other conveyance.

(2) The required payment shall be made before the certification of approval may be affixed to the Final Plat.

(3) After the Final Plat has been recorded, no lot or parcel may be further divided by replat, or conveyance as defined in W.S.A. §706.01(3), and no building permit may be issued, unless:

a. Such further division has been approved by the Plan Commission as being in accordance with the purpose of this ordinance and with the purposes of W.S.A. Chapter 236;

b. Payment of the fee as specified in §17-28(3) shall be made for each additional lot or parcel created by the division; and

c. The proportionate payment in lieu of dedication as set forth in this section

shall be paid for all certified survey maps, and the Register of Deeds of the county in which the land is located shall not accept a certified survey map for record unless the map has been approved by the Common Council.

(d) ***Determination of feasibility.*** The determination as to the feasibility of dedication shall be made by the City Plan Commission.
(Code 1965, §21.13(1)(c); Ord 55-94, §1, 4-20-94; Ord 67-94, §1, 6-18-94, Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06; Ord 44-09, §1, 3-10-09)

**Sec. 17-30. Identification of dedicated areas.**

All areas to be dedicated except streets shall be clearly identified as dedicated for public use.
(Code 1965, §21.13(1)(d), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

**Sec. 17-31. Reservation of road widths.**

Road widths in excess of the minimum primary arterial rights-of-way established in this ordinance are required to be reserved.
(Code 1965, §21.13(2)(a), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

**Sec. 17-32. Reservation of public sites.**

Where sites for parks, schools, playgrounds or other public uses except streets, as shown in the comprehensive plan, are located within the subdivision area, the Common Council shall require that the sites be reserved by the subdivider for a period of two (2) years from the date of approval of the Final Plat. If the government agency concerned passes a resolution expressing its intent to acquire the land so reserved, the reservation period shall be extended for an additional six (6) months. Public reservations shall be clearly identified on the plat; e.g., "Reserved for Public School Site". The Council may by resolution waive any reservation so required.
(Code 1965, §21.13(2)(b), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

**Sec. 17-33. Private reservations.**

Reservation of areas for the exclusive use of the occupants of a subdivision may be permitted by the Common Council when such reservations will not be contrary to the public health, safety, morals or general welfare, and such areas shall be clearly identified on the preliminary and final plats as private reservations.
(Code 1965, §21.13(2)(c), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

**Sec. 17-34. Right of refusal.**

The number, size and location of all dedications, reservations or easements shall be subject to approval, and the Common Council shall ascertain that the proposed sites are suitable for the proposed uses. The Council retains the right to refuse any dedication.
(Code 1965, §21.13(3), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

**Sec. 17-35. Accomplishment of dedication.**

When a final plat of a subdivision located in the City has been approved by the Common Council and all other required approvals are obtained and the plat is recorded, that approval constitutes acceptance for the purpose designated on the plat of all lands shown in the plat as dedicated to the public, including street dedications.
(Code 1965, §21.13(4), Ord 200-01, §1, 12-24-01, Ord 140-06, §1, 12-26-06)

*Editor's Note: Chapter 17, in its entirety, was repealed and recreated as Ordinance 140-06, approved by Council on December 20, 2006, published on December 25, 2006 and became effective on December 26, 2006.

*(The next page is 1173.)*

# Chapter 18

## Taxation and Finance

**ARTICLE I. IN GENERAL**
Reserved ..... 18-1 – 18-25

**ARTICLE II. FINANCE**
Processing of claims against City of Appleton ..... 18-26
Budget ..... 18-27
Preparation ..... 18-27(a)
Transfer of funds ..... 18-27(b)
Reserved ..... 18-28 – 18-50

**ARTICLE III. TAXATION**
DIVISION 1. GENERALLY
Election regarding treasurer's bond ..... 18-51
Payment of real estate taxes ..... 18-52
Due date ..... 18-52(a)
Installments ..... 18-52(b)
Reserved ..... 18-53 – 18-65
DIVISION 2. HOTEL AND MOTEL ROOM TAX
Definitions ..... 18-66
Imposition of room tax ..... 18-67
Proceeds of PAC room tax ..... 18-68
Priority of payment ..... 18-69
Tourism entity ..... 18-70
Collection and administration of room tax ..... 18-71
Permit required ..... 18-72
Penalty for violations ..... 18-73
Liability for tax on sale or transfer of business ..... 18-74
Schedule of forfeiture ..... 18-75
Confidentiality of information ..... 18-76
Enforcement ..... 18-77
Expiration of exhibition center room tax ..... 18-78
Reserved ..... 18-79
DIVISION 3. MOTOR VEHICLE REGISTRATION FEE
Authority ..... 18-80
Purpose ..... 18-81
Definitions ..... 18-82
Imposition of motor vehicle registration fee ..... 18-83
Administrative costs ..... 18-84
Exemptions ..... 18-85
Deposit of fee revenues ..... 18-86
Reserved ..... 18-87 – 18-100

**ARTICLE IV. SPECIAL ASSESSMENTS**
DIVISION 1. GENERALLY
Levy and collection procedure ..... 18-101
Reserved ..... 18-102
Reserved ..... 18-103 – 18-115
DIVISION 2. SANITARY SEWERS
Assessment authorized; purpose ..... 18-116

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***Charter ordinance reference--**Finance Department, §4-161 et seq.
**Cross reference(s)--**Director of Finance, §2-235 et seq.
**State law reference(s)** – Municipal borrowing. W.S.A. Ch. 67.

## ARTICLE I. IN GENERAL

**Secs. 18-1 – 18-25. Reserved.**

## ARTICLE II. FINANCE

**Sec. 18-26. Processing of claims against City.**

W.S.A. §66.0609 is hereby adopted as the procedure for processing the payment of bills and other claims against the City.
(Code 1965, §2.05, §2.06)

**Sec. 18-27. Budget.**

(a) ***Preparation.*** The Mayor shall submit an executive budget to the Common Council on or before the first Wednesday in October in each year. The executive budget shall set forth in detail the amount proposed to be spent by each department, the various purposes therefore and the amounts of money proposed to be appropriated by the Common Council for each purpose. The executive budget shall be referred to the Finance Committee, which shall schedule and hold such budget hearings as it deems necessary, and shall transmit its proposed budget to the Common Council.

(b) ***Transfer of funds***. No funds shall be transferred from one appropriation to another except by affirmative vote of a two-thirds (2/3) vote of all members of the Common Council.

(c) The total tax levy, defined as the City-purpose assessed tax rate times total assessed value, adjusted for any services transferred from the tax levy to an enterprise fund or that becomes established as its own taxing authority and less the affect of any new revenues for expenses previously financed by the tax levy and less any increases greater than inflation in current revenues, said increase in revenues measured by comparing the previous years' adopted budget to the present year's budget propose for approval, other than the tax levy plus applied fund balance and excepting one time grant revenues awarded to the City to be used in place of project borrowing shall not increase by more than the rate of inflation plus an allowance for growth, without a three-quarters (¾) vote of the Common Council. Inflation shall be defined as the Consumer Price Index for Urban Wage Earners and Clerical Workers (12-month previous from September of the present year, expenditure category -- "all items") and an allowance for growth shall be defined as 60% of the percentage change in Appleton's equalized value due to the net new construction less improvements removed as reported by the Wisconsin Department of Revenue on Form ERP-1.
(Code 1965, §2.07(1)(a), (4); Ord 52-92, §1, 5-6-92; Ord 34-97, §1, 4-16-97; Ord 66-99, §1, 10-10-99; 122-07, §1, 8-7-07; Ord 84-08, §1, 5-27-08; Ord 70-10, §1, 5-11-10; Ord 125-11, §1, 5-10-11)
**State law reference(s)--**Municipal budget, W.S.A. §62.12(2); preparation of budget, W.S.A. §65.01 et seq.

**Secs. 18-28 – 18-50. Reserved.**

## ARTICLE III. TAXATION*

## DIVISION 1. GENERALLY

### Sec. 18-51. Election regarding treasurer's bond.

The City elects not to give the bond on the Director of Finance provided for by W.S.A. §70.67(1). Pursuant to W.S.A. §70.67(2), the City shall be obligated to pay, in case the Director of Finance shall fail to do so, all state and county taxes required by law to be paid by such Director of Finance to the County treasurer.
(Code 1965, §2.03; Ord 4-93, §1, 1-6-93)
**State law reference--**Finance, W.S.A. §62.12.
***State law reference--**Power to levy, W.S.A. §65.07.

### Sec. 18-52. Payment of real estate taxes.

(a) ***Due date***. The time of payment of regular taxes on real estate in the City assessed for the City purposes is January 31.

(b) ***Installments***. The taxpayer may pay his real estate taxes in four (4) equal installments provided the first installment is paid on or before January 31. The second installment shall be due on or before March 31. The third installment shall be due on or before May 31. The fourth installment shall be due on or before July 31.
(Code 1965, §2.04)

**Secs. 18-53 – 18-65. Reserved.**

## DIVISION 2. HOTEL AND MOTEL ROOM TAX*

### Sec. 18-66. Definitions.

Definitions. In addition to those terms defined in this section, the terms used in this Ordinance shall have the definition, if any, ascribed to them in §66.0615 of the Wisconsin Statutes.

***ARA*** shall mean the Redevelopment Authority of the City of Appleton, Wisconsin, a Wisconsin body politic and corporate.

***CVB*** shall mean the Fox Cities Convention & Visitors Bureau, Inc., a Wisconsin corporation.

***Exhibition Center Bonds*** shall mean bonds issued or to be issued by the ARA as partial funding for the construction of a new Fox Cities Exhibition Center, or any refinance thereof, as well as for any other purpose authorized under that Exhibition Center Cooperation Agreement between the Municipalities located within the Fox Cities Tourism Zone, the ARA and the Fox Cities Room Tax Commission, dated as of November 24, 2015.

***Fox Cities Tourism Zone*** shall mean that geographic area encompassing the City of Appleton, Wisconsin; the City of Kaukauna, Wisconsin; the City of Neenah, Wisconsin; the Village of Kimberly, Wisconsin; the Village of Little Chute, Wisconsin; the Town of Grand Chute, Wisconsin; the Town of Neenah, Wisconsin; the Town of Menasha, Wisconsin; the City of Menasha, Wisconsin and the Village of Sherwood, Wisconsin.

***Fox Cities Room Tax Commission*** shall mean the Room Tax Commission created by the Municipalities within the Fox Cities Tourism Zone through that Amended and Restated Room Tax Commission Agreement dated November 24, 2015, in order to coordinate tourism promotion and tourism development within the Fox Cities Tourism Zone using the proceeds of Room Taxes imposed under this Ordinance, and having on its Board certain representatives of the Municipalities and certain representatives of the Wisconsin hotel and motel industry.

***PAC Bonds*** shall mean those bonds issued by the ARA to partially fund construction of the Fox Cities Performing Arts Center.

***Pledge Agreement*** shall mean that Amended and Restated Pledge and Security Agreement dated May 1, 2012 by and between the City of Appleton, Wisconsin; the City of Kaukauna, Wisconsin; the City of Neenah, Wisconsin; the Village of Kimberly, Wisconsin; the Village of Little Chute, Wisconsin; the Town of Grand Chute, Wisconsin; the Town of Neenah, Wisconsin; the Town of Menasha, Wisconsin; the Fox Cities Area Room Tax Commission and Associated Trust Company.

***Room Tax*** shall mean a tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators or other persons furnishing accommodations which are available to the public, irrespective of whether membership is required for use of the accommodations, pursuant to the Room Tax Act.

***Room Tax Act*** shall mean §66.0615 of the Wisconsin Statutes, as amended from time to time.
(Ord 99-85, §1, 10-16-85; Ord 106-15, §1, 1-1-16)
**State law reference(s)** – Similar definitions, W.S.A. §77.52(2)(a). ***State law reference** – Authority, W.S.A. §66.0615.

### Sec. 18-67. Imposition of room tax.

(a) Pursuant to the Room Tax Act, there is hereby imposed upon the privilege of furnishing, at retail (except sales for resale) rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public (collectively, "Operators"), irrespective of whether membership is required for use of the accommodations, within the City. Such Room Tax shall be imposed at the total rate of ten percent (10%). Operators shall remit all collected Room Tax revenues to the Director of Finance in accordance with the requirements of this Ordinance and the Room Tax Act. The proceeds shall then be paid to the Fox Cities Room Tax Commission or its designees or assigns, unless otherwise indicated herein, to be used for purposes of coordinating tourism promotion and tourism development within the Fox Cities Tourism Zone. A Room Tax is hereby imposed at the rate of ten percent (10%) within the City to be allocated as follows:

(1) Room Tax in the amount of three percent (3%) shall be imposed and allocated toward the support of the CVB, to be used for the promotion of the Fox Cities Tourism Zone as a tourism destination ("CVB Room Tax"), except that:

    a. The City may retain five percent (5%) of the revenues of this CVB Room Tax for general tourism support and development in the City in accordance with the requirements of the Room Tax Act.

(2) A Room Tax in the amount of two percent (2%) shall be imposed and allocated toward payment of debt service on the PAC Bonds in accordance with that Cooperation Agreement dated June 1, 2000 to which the City is a party. The rate imposed as set forth in this subsection (2) shall be known as the "PAC Room Tax". Upon full payment and satisfaction of the PAC

Bonds, the PAC Room Tax shall ultimately be reallocated toward the development and support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone as more fully set forth in Section (C) of this Ordinance.

(3) A Room Tax in the amount of three percent (3%) shall be imposed and allocated toward payment of debt service on the Exhibition Center Bonds in accordance with that Exhibition Center Cooperation Agreement dated November 24, 2015 to which the City is a party ("Exhibition Center Room Tax"). The Exhibition Center Room Tax shall sunset and expire upon full payment and satisfaction of the Exhibition Center Bonds at a date to be determined. The Municipalities shall each provide written notice to Operators upon the full payment and satisfaction of the Exhibition Center bonds. Upon full satisfaction of the Exhibition Center Bonds, the Room Tax shall be reduced by three percent (3%), with such reduction being deemed to be the share of the Room Tax allocated to the Exhibition Center Room Tax. At the time that the Exhibition Center Bonds are fully satisfied, there may be an excess of Exhibition Center Room Tax proceeds collected above that amount needed to satisfy the Exhibition Center Bonds. In such an event, those excess funds shall be reallocated to the Tourism Development Fund as that term is referenced and defined in the Exhibition Center Cooperation Agreement.

(4) A Room Tax in the amount of one percent (1%) ("Municipal Room Tax") shall be retained by the City to be used for general tourism support and development in the Fox Cities Tourism Zone in accordance with the requirements of the Room Tax Act.

(5) A Room Tax in the amount of one percent (1%) shall be imposed and allocated toward the support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone ("Tourism Facilities Room Tax"). The proceeds of the Tourism Facilities Room Tax shall be remitted to CVB to be held and administered as part of the Tourism Development Fund, as that term is referenced and defined in the Exhibition Center Cooperation Agreement.

(Ord 99-85, §1, 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16)

**Sec. 18-68. Proceeds of PAC room tax.**

Notwithstanding anything in this Ordinance to the contrary, in order to honor existing contractual obligations, the proceeds of the PAC Room Tax shall continue to be directed to the Trustee under the Pledge Agreement until the PAC Bonds have been paid in full. Following full payment and satisfaction of the PAC Bonds, the proceeds generated from the PAC Room Tax for the calendar quarter in which the PAC Bonds were fully paid and satisfied shall be directed toward payment of debt service on the Exhibition Center Bonds, capitalized interest payments on the Exhibition Center Bonds or may be deposited into reserve and stabilization funds associated with the issuance of the Exhibition Center Bonds. Commencing on the first day of the next calendar quarter, all proceeds from the PAC Room Tax shall be directed toward the support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone.

(Ord 99-85, §1(2), 10-16-85; Ord 4-93, §1, 1-6-93, Ord 38-00, §1, 5-20-00; Ord 106-15, §1, 1-1-16)

**Sec. 18-69. Priority of payment.**

(a) In the event any Operator or Municipality fails to remit the full amounts owed in any quarterly payment ("Deficient Payment") under this Agreement, the Exhibition Center Cooperation Agreement or the ordinances executed as required thereunder, the parties agree and acknowledge that the Deficient Payment amounts actually received by the Commission shall be applied in the following priority order:

(1) The Deficient Payment amounts received shall first be applied toward the three percent (3%) Room Tax imposed for the support of the CVB; and

a. The Deficient Payment amounts remaining after payment to the CVB as required in subsection (1) above, shall be applied toward the two percent (2%) Room Tax pledged as collateral for payment of the PAC Bonds; and

b. The Deficient Payment amounts remaining after payment toward the PAC Bonds as required in subsection (2) above, shall be applied toward the three percent (3%) Room Tax pledged as collateral for payment of the Exhibition Center Bonds;

and

c. The Deficient Payment amounts remaining after payment toward the Exhibition Center Bonds as required in subsection (3) above, shall be applied toward the one percent (1%) Municipal Room Tax; and

d. All remaining Deficient Payment amounts shall be applied toward the one percent (1%) Tourism Facilities Room Tax.

(Ord 99-85, §1(3), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16)

**Sec. 18-70. Tourism entity.**

The CVB shall act as the "tourism entity" as that term is defined in the Room Tax Act, for purposes of providing staff, support services and assistance to the Fox Cities Room Tax Commission in developing and implementing programs to promote the Fox Cities Tourism Zone to visitors, as more fully set forth in an agreement between the Fox Cities Room Tax Commission and the CVB.

(Ord 99-85, §1(4) – (6), 10-16-85; Ord 4-93, §1, 1-6-93, Ord 106-15, §1, 1-1-16)

**Sec. 18-71. Collection and administration of room tax.**

This ordinance shall be administered by the City Director of Finance. The tax imposed by this ordinance shall be payable quarterly and shall be due on the last day of the month next succeeding the calendar quarter in which it was imposed. A return shall be filed with the City Director of Finance by all Operators on or before the same date on which such tax is due and payable. Such return shall show the gross room receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period and such other information as the City deems necessary. Every person required to file such quarterly return shall, with his first return, elect to file an annual calendar year or fiscal year return. Such annual return shall be filed within ninety (90) days of the close of each such calendar or fiscal year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain certain such additional information as the City requires. Such annual returns shall be signed by the person required to file a return or his duly authorized agent, but need not be verified by oath. The City may, for good cause, extend the time of filing any return, but in no event longer than one (1) month from the filing date.

(Ord 99-85, §1(4) – (6), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16)

**Sec. 18-72. Permit required.**

Every Operator under this ordinance shall file with the Director of Finance an application for a permit for each place of business that is required to collect Room Tax hereunder. Every application for a permit shall be made upon a form prescribed by the City and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business, and such other information as the City requires. The application shall be signed by the owner if a sole proprietor and, if not a sole proprietor, by the person authorized to act on behalf of such sellers. At the time of making an application, the applicant shall pay the City an initial fee of twenty dollars ($20.00) for each permit. A permit issued hereunder is non-transferable.

(Ord 99-85, §1(8) – (10), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16)

**Sec. 18-73. Penalty for violations.**

In addition to the Schedule of Forfeiture set forth in Sec. 18-75 herein, any Operator in violation of the terms of this Ordinance by failing to obtain and maintain a permit, when such permit is required, shall be subject to a penalty as set forth in Section 1-16 of the Appleton Code of Ordinances for each violation. Each room or unit separately rented or offered for rent, and each day of such rental or offer for rental of such unit shall be a separate violation. In addition, injunctive relief is hereby authorized to discontinue violation of this Ordinance. Any party deemed to have violated any of the provisions of this Ordinance shall be obligated to pay the costs of prosecution, in addition to actual attorney fees expended in the course of said enforcement. The City may revoke or suspend any permit issued hereunder for failure to comply with the provisions hereof.

(Ord 99-85, §1(11), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16)

**Sec. 18-74. Liability for tax on sale or transfer of business.**

If any Operator liable for any amount of tax under this Ordinance sells or transfers all or substantially all of its interest in the hotel, motel or other accommodation, its successors or assigns shall withhold sufficient amounts from the purchase price to cover the amount of tax liability until the Operator produces a receipt from the City Treasurer that its liability has been paid in full or a certificate stating that no amount is due. If a successor subject to the tax imposed by this Ordinance fails to withhold such amount from the purchase price as required, it shall become personally liable for payment of the amount required to be withheld by it.

(Ord 99-85, §1(12)), 10-16-85; Ord 106-15, §1, 1-1-16)

**Sec. 18-75. Schedule of forfeiture.**

In addition to paying the Room Taxes due hereunder, each Operator shall be required to forfeit an amount equal to twenty-five percent (25%) of the Room Tax due from the Operator to the City for the previous year or Five Thousand Dollars ($5,000), whichever is less, for a failure to pay the

Room Tax due hereunder.
(Ord 99-85, §1(13), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16)

**Sec. 18-76. Confidentiality of information.**

To the extent permitted under the law, the information provided to the City under §66.0615(2) of the Wisconsin Statutes shall remain confidential; provided, however, that the City or any employee thereof may use such information in the discharge of duties imposed by law or of the duties of their office or by order of a court. Persons violating the provisions of this subsection may be required to forfeit not less than $100 nor more than $500.
(Ord 99-85, §1(14), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16)

**Sec. 18-77. Enforcement**

The City shall enforce this ordinance in accordance with the Room Tax Act.
(Ord 99-85, §1(15), 10-16-85; Ord 106-15, §1, 1-1-16)

**Sec. 18-78. Expiration of exhibition center room tax.**

The Exhibition Center Room Tax shall expire upon full payment of the Exhibition Center Bonds; provided that Operators may not discontinue collection of the Exhibition Center Room Tax until the City provides notice that the Room Tax allocated to the Exhibition Center has been terminated by operation of this ordinance and the Exhibition Center Cooperation Agreement.
(Ord 99-85, §1 (16), 10-16-85; Ord 106-15, §1, 1-1-16)

**Sec. 18-79. Reserved.**

## DIVISION 3. MOTOR VEHICLE REGISTRATION FEE

**Sec. 18-80. Authority.**

This division is adopted pursuant to the authority granted by Wisconsin Statutes §341.35, as from time to time amended.

**Sec. 18-81. Purpose.**

The purpose of this ordinance is to provide the City of Appleton a source of revenue to be used to assist with existing road construction replacement.

**Sec. 18-82. Definitions.**

In this section, a "motor vehicle" means an automobile or motor truck registered under §341.25(1)(c) at a gross weight of not more than 8,000 lbs.

**Sec. 18-83. Imposition of motor vehicle registration fee.**

(a) Pursuant to §341.35 of the Wisconsin Statutes, an annual flat city registration fee as set forth herein, in the amount of twenty dollars ($20.00) is hereby imposed on all motor vehicles registered in the state of Wisconsin that are customarily kept in the city of Appleton.

(b) This fee shall be paid by the registration applicant at the time that a motor vehicle is first registered and at each time of registration renewal.

(c) The City registration fee shall be paid as provided in Wisconsin Statutes §341.35(5).

(d) The City registration fee shall be in addition to State registration fees.

**Sec. 18-84. Administrative costs.**

The Wisconsin Department of Transportation shall retain a portion of monies collected equal to the actual administrative costs related to the collection of these fees. The method for computing the administrative costs will be reviewed annually by the Wisconsin Department of Transportation, as provided in Wisconsin Statutes §341.35.

**Sec. 18-85. Exemptions.**

The following motor vehicles are exempt from the annual City of Appleton vehicle registration fee:

(a) All vehicles exempted by Wisconsin Statutes Chapter 341 from payment of a state vehicle registration fee.

(b) All vehicles registered by the State of Wisconsin under §341.26 for a fee of five dollars ($5.00).

(c) No City vehicle registration fee may be imposed on a motor vehicle which is a replacement for a motor vehicle for which a current City vehicle registration fee has been paid.

**Sec. 18-86. Deposit of fee revenues.**

All monies under the applicable statute and this chapter remitted to the City by the Wisconsin Department of Transportation or other applicable agency shall be deposited into the City's general fund and be used solely for assisting with existing road construction replacement.

**Secs. 18-87 – 18-100. Reserved.**

**Editor's Note**: Article III, Division 3, generally known as the 'Wheel Tax' ordinance was adopted by the Appleton Common Council on October 1, 2014 and became effective for vehicles registered on or after January 1, 2015.

## ARTICLE IV. SPECIAL ASSESSMENTS*

### DIVISION 1. GENERALLY

**Sec. 18-101. Levy and collection procedure.**

The City, in levying and collecting special assessments for the construction and installation of public improvements in the City, shall proceed in the following manner:

(1) Whenever the Common Council shall deem it necessary in the best interest of the City to construct or cause to be constructed any such improvements, all or part of the cost of which is to be assessed against the property benefited, it shall adopt a preliminary resolution declaring its intention to exercise its power of assessment for such stated purpose. Such resolution shall contain the information required by W.S.A. §66.0703(4).

(2) Any and all persons who appear at the hearing shall be heard for or against the contemplated improvements and assessments.

(3) After the hearing upon any proposed work or improvement, the Common Council may approve, disapprove or modify the report or it may refer the report back to the Finance Committee with such directions as it deems necessary to accomplish a fair and equitable assessment.

(4) When the Common Council finally determines to proceed with the work or improvement, it shall by resolution direct the Finance Committee to proceed with such work or improvements, in accordance with the report as finally approved, and direct the Director of Public Works to determine the assessments. The City Clerk shall publish and mail the final resolution as provided for therein shall be deemed legally authorized and the assessments so provided shall be deemed duly and legally made, subject to the right of appeal provided for in W.S.A. §66.0701(2).

(5) Whenever the actual cost of any project shall, upon completion or after the receipt of bids, be found to vary materially from the estimates or whenever any assessment is void or invalid for any reason, or whenever the Common Council shall determine to reconsider and reopen any assessment, it shall do so only after first giving notice as provided in W.S.A. §66.0703(8)(d).

(6) If the cost of the project is less than the special assessment levied by the Common Council, without notice or hearing, shall reduce such special assessment proportionately, and when any assessments or installments thereof have been paid, the excess over cost shall be applied to reduce succeeding unpaid installments, where the property owner is paying in installments, or refunded to the property owner.

(7) Except as otherwise provided in this section, the special assessments may be paid in annual installments as provided in the special assessment policy. The first installment, if not sooner paid, shall be placed by the Director of Finance as a special charge in the first tax roll prepared after completion of the work, and one (1) of the subsequent installments shall be so placed in each of the annual tax rolls thereafter until all are levied. The first installment shall be due at the time the general property taxes are due, and the subsequent installments shall be due thereafter together with one (1) year's interest at the rate set in the Special Assessment Policy per annum on the unpaid balance. Installments of assessments not paid when due shall be returned to the county as delinquent the same as delinquent taxes. Payment in full may be made at any time, but the property owner shall pay accrued interest, if any, on such payment, to the date of payment.

(8) Assessments in the amount less than that set annually by the Common Council in the assessment policy shall not be paid on the installment basis, and the Director of Finance shall place the assessment, as a special tax, in the first tax roll prepared after the publication of the final resolution of Common Council establishing the assessments.

(9) Property owners may submit waivers pursuant to W.S.A. §66.0703(7)(b), and if the owners of all of the property to be specially benefited by such work or improvement submit such waiver the Common Council may make the assessment without notice and hearing.

(Code 1965, §2.08; Ord 4-93, §1, 1-6-93; Ord 14-13, §1, 7-8-13)

**Cross reference(s)-**Streets, sidewalks and other public places, ch. 16; utilities, ch 20.

****State law reference**- Special assessments, W.S.A. §66.0703 et seq.

**Sec. 18-102. Reserved.**

**Editor's note –** Ord 109-92. §1, adopted Oct. 7, 1992, which pertained to deferred payments, repealed §18-102 in its entirety.

**Secs. 18-103 – 18-115. Reserved.**

## DIVISION 2. SANITARY SEWERS*

### Sec. 18-116. Assessment authorized; purpose.

In addition to the special assessments authorized pursuant to §18-101 et seq., there shall be an additional assessment for sanitary sewers based upon the area of the benefited property. The purpose of this area-based assessment is to recover in an equitable way the cost of interceptor sewers, feeder mains, lift stations and similar appurtenances which benefit a discrete area of the City.

**Cross reference-**Sewers and wastewater disposal, §20-66 et seq.

**Editor's note:** §18-117 & §18-118 relating to service districts and levy procedure, were repealed in their entirety by Ord 16-96, §1, 3-6-95.

*(The next page is 1231.)*

# Chapter 19

# Traffic and Vehicles

**ARTICLE I. IN GENERAL**
Adoption of state traffic laws ..... 19-1
Violations generally ..... 19-2
Obedience to traffic officers ..... 19-3
School crossing guards ..... 19-4
Official traffic signs and signals ..... 19-5
Authority to impose temporary regulations ..... 19-6
Traffic regulations during disaster emergencies; emergency routes ..... 19-7
Vehicle locking equipment; leaving key in unattended vehicle ..... 19-8
Obstruction of street by trains ..... 19-9
Obstruction of view at intersection by vegetation, fence, etc. ..... 19-10
Low-speed vehicles ..... 19-11
Reserved ..... 19-12 – 19-40

**ARTICLE II. REGULATIONS FOR SPECIFIC STREETS**
DIVISION 1. GENERALLY
Through streets ..... 19-41
One-way streets ..... 19-42
No left turn intersections ..... 19-43
No right turn intersections ..... 19-44
No turn on red light; intersections where ..... 19-45
Reserved ..... 19-46 – 19-55
DIVISION 2. SPEED LIMITS
State speed limits adopted ..... 19-56
Speed limits designated – fifteen miles per hour ..... 19-57
Same – twenty miles per hour ..... 19-58
Same – thirty miles per hour ..... 19-59
Same – thirty-five miles per hour ..... 19-60
Same – forty miles per hour ..... 19-61
Same – forty-five miles per hour ..... 19-62
Same – fifty miles per hour ..... 19-63
Reserved ..... 19-64 – 19-85

**ARTICLE III. STOPPING, STANDING AND PARKING**
DIVISION 1. GENERALLY
Authority to impose parking restrictions; parking district map ..... 19-86
Holidays ..... 19-87
Enforcement of parking restrictions; meter checkers ..... 19-88
Interfering with enforcement actions ..... 19-89
Parking violation forfeitures ..... 19-90
Parking in front and side yard in residential district; parking on terraces ..... 19-91
Recreational and commercial vehicle parking and storage in residential district ..... 19-92
Nighttime parking on street or alley ..... 19-93
Snow emergencies ..... 19-94
Definitions ..... 19-94(a)
Declaration of emergency ..... 19-94(b)
General parking restrictions ..... 19-94(c)
Loading zones ..... 19-95
Truck loading zones ..... 19-95(a)
Passenger loading zones ..... 12-95(b)

Reserved.....19-96 – 19-105
DIVISION 2. PARKING METERS AND CITY PARKING FACILITIES
City-owned parking lots.....19-106
Parking meters – generally.....19-107
Same – suspension of fees on certain days.....19-108
Hours of operation of metered parking facilities.....19-109
Metered on-street parking.....19-110
Metered off-street parking.....19-111
Non-metered off-street parking.....19-112
Parking permits.....19-113
Loitering in off-street parking facilities prohibited.....19-114
Reserved.....19-115 – 19-135

**ARTICLE IV. TRUCK ROUTES**
Generally.....19-136
Routes enumerated.....19-137
Reserved.....19-138 – 19-160

**ARTICLE V. BICYCLES AND PLAY VEHICLES**
DIVISION 1. GENERALLY
Definitions.....19-161
Penalty for violation of article.....19-162
Compliance with article; responsibility of parents.....19-163
Operation of skateboards as prohibited in certain areas.....19-164
Reserved.....19-165 – 19-175
DIVISION 2. BICYCLES
Reserved.....19-176 – 19-180
Unclaimed or unidentified bicycles.....19-181
Applicability of traffic regulations to persons operating bicycles.....19-182
Riding bicycle on sidewalk.....19-183
Riding bicycle on roadway.....19-184
Riding bicycle on bicycle lane.....19-185
Riding bicycle on bicycle way.....19-186
Carrying passengers.....19-187
Improper riding, trick riding and racing.....19-188
Obedience to speed limits.....19-189
Obedience to traffic-control devices.....19-190
Stopping, turning and signaling.....19-191
Emerging from alley or driveway.....19-192
Parking.....19-193
Clinging to vehicles.....19-194
Position of passengers; towing.....19-195
Carrying articles.....19-196
Handlebars.....19-197
Lamps and other equipment.....19-198
Reserved.....19-199
Riding bicycle without consent of owner.....19-200
Reserved.....19-201
Reserved.....19-202

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***Cross reference(s) -** Parking and transit commission, §2-166 et seq.; moving of buildings, §4-206 et seq.; operation of snowmobiles restricted, §10-25; traffic entrances for mobile home parks, §11-92; motor vehicle noise restrictions, §12-82; abandoned vehicles, §12-102; operation of vehicles in parks and recreation areas restricted, §13-79; driving vehicle over curb, sidewalk, etc. prohibited, §16-7.

**State law reference(s) -** Traffic regulations, W.S.A. §346.01 et seq.; power of cities to regulate traffic, W.S.A. §349.01 et seq.

## ARTICLE I. IN GENERAL

### Sec. 19-1. Adoption of state traffic laws.

(a) Except as otherwise specifically provided in this chapter, all provisions of W.S.A. chapters 340 to 348 describing and defining regulations with respect to vehicles and traffic for which the penalty is a forfeiture only, including penalties to be imposed and procedure for prosecution, are hereby adopted and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated in this chapter by reference is required or prohibited by this chapter. Any future creations, amendments, revisions or modifications of statutes incorporated in this chapter are intended to be made part of this chapter in order to secure uniform statewide regulations of traffic on the highways, streets and alleys of the State.

(b) The sections of W.S.A. chapters 340 to 348 adopted by reference shall include, but not be limited to, the following:

| | |
|---|---|
| (1) 340.01 | Words and phrases defined |
| (2) 341.01(1), (2) | Improper, expired or non-registration |
| (3) 341.08 | No consent for registration |
| (4) 341.11(4) | Display of registration certificates |
| (5) 341.145(8) | Failure to return personalized plates |
| (6) 341.15 | Display of registration plates |
| (7) 341.16(4) | Failure to destroy recovered plates |
| (8) 341.335(1) | Failure to notify DMV of change of address |
| (9) 341.42(4), (5) | Reciprocity permits |
| (10) 341.51(5) | Failure of dealer, et al. to register |
| (11) 341.55 | Misuse of dealer plates |
| (12) 341.57(3) | Misuse of finance, bank license plates |
| (13) 341.61 | Improper use of registration plates |
| (14) 341.62 | Display of false registration plates |
| (15) 341.63(3) | Failure to return registration plates |
| (16) 342.05(4) | Certificate of title required |
| (17) 342.06(3) | Failure to state use as taxicab |
| (18) 342.15(4), (5), (6), (7) | Failure to transfer, etc. |
| (19) 342.16(2) | Failure of dealer to record transfer |
| (20) 342.23(2) | Failure to deliver title |
| (21) 342.30 to 342.33 | Anti-theft, anti-fraud provisions |
| (22) 343.10(6)(6a) | Violation of occupational license |
| (23) 343.12 | Expired or no school bus license |
| (24) 343.125(1), (2) | Chauffeur's license violations |
| (25) 343.19(2) | Duplicate license fraud |
| (26) 343.22(1) | Failure to surrender license or notify DMV |
| (27) 343.43(1)(d) | Unlawful use of license |
| (28) 343.43(3)(b) | Penalty for violating §343.43(1)(d) |
| (29) 343.44(1) | Operating after suspension or revocation (unless revocation is result of conviction of §346.04(3), §346.63, §346.67, §940.06, §940.09 or §940.25 local ordinance in conformity with §346.63) |
| (30) 343.45, 343.46 | Unlawful practices relative to licenses |
| (31) 343.52 | Lending special identification card |
| (32) 344.45(2) | Failure to return plates |
| (33) 344.46(1) | Transfer of vehicle |
| (34) 344.47(1) | Operation after suspension or revocation |
| (35) 344.51 | Renting vehicle without financial responsibility |
| (36) 345.11 to 345.61 | General provisions in traffic forfeiture arrests |
| (37) 346.03 | Applicability of chapter to emergency vehicles |
| (38) 346.04(1) & (2) | Obedience to traffic officers and signs |
| (39) 346.05 to 346.16 | Driving, meeting, overtaking and passing |
| (40) 346.17 | Penalty for violating §346.05 to §346.16 |
| (41) 346.18 to 346.21 | Right-of-way |
| (42) 346.22 | Penalty for violating §346.18 to §346.21 |
| (43) 346.23 to 346.29 | Rights and duties of drivers and pedestrians |
| (44) 346.30 | Penalty for violating §346.23 to §346.29 |
| (45) 346.31 to 346.35 | Turning, stopping and required signals |
| (46) 346.36 | Penalty for violating §346.31 to §346.35 |
| (47) 346.37 to 346.42 | Traffic signs, signals and markings |
| (48) 346.43 | Penalty for violating §346.37 to §346.42 |
| (49) 346.44 to 346.48 | Required stops |
| (50) 346.49 | Penalty for violating §346.44 to §346.48 |
| (51) 346.50 to 346.55 | Restrictions on stopping and parking |

| | |
|---|---|
| (52) 346.56 | Penalty for violating §346.50 to §346.55 |
| (53) 346.57 to 346.595 | Speed restrictions |
| (54) 346.60 | Penalty for violating §346.57 to §346.595 |
| (55) 346.61, 346.62(1), 346.63(1) | Reckless and drunken driving |
| (56) 346.65 | Penalty for violating §346.61 to §346.64 |
| (57) 346.66 to 346.73 | Accidents and accident reports |
| (58) 346.74 | Penalty for violating §346.67 to §346.73 |
| (59) 346.77 to 346.81 | Bicycles and play vehicles |
| (60) 346.82 | Penalty for violating §346.77 to §346.81 |
| (61) 346.87 to 346.94 | Miscellaneous rules |
| (62) 346.95 | Penalty for violating §346.87 to §346.94 |
| (63) 346.96 | Transportation in vehicles |
| (64) 346.97 | Transportation of handicapped persons |
| (65) 347.06 to 347.29 | Lighting equipment |
| (66) 347.30 | Penalty for violating §347.06 to §347.29 |
| (67) 347.35 to 347.49 | Other equipment |
| (68) 347.50 | Penalty for violating §347.35 to §347.49 |
| (69) 348.01 to 348.02 | Size, weight, load |
| (70) 348.05 to 348.10 | Size and load |
| (71) 348.11 | Penalty for violating size and load limitations |
| (72) 348.15 to 348.20 | Weight |
| (73) 348.21 | Penalty for violating §348.15 to §348.20 |
| (74) 348.25 to 348.27 | Permits |
| (75) 348.28 | Penalty for not carrying permits |

(c) In addition, the provisions of Wisconsin Administrative Code, Chapter Trans 305 regarding motor vehicle equipment requirements, are hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §10.01; Ord 75-89, §1, 6-21-89, Ord 61-99, §1, 8-22-99)

(d) In addition, the provisions of Wisconsin Administrative Code, Chapter Trans 102.14(4) requiring those who establish Wisconsin residency to apply for a Wisconsin operator's license within thirty (30) days of establishing Wisconsin residency, exclusive of any penalties are hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 50-00, §1, 7-8-00)

**Sec. 19-2. Violations generally**.

(a) Enforcement procedures. This chapter shall be enforced in accordance with the provisions of W.S.A. §66.12, W.S.A. §345.20 to §345.53, and W.S.A. chapter 799.

(b) Stipulation of guilt or no contest. Stipulations of guilt or no contest may be made by persons arrested for violations of this chapter in accordance with W.S.A. §66.12(1)(b) whenever the provisions of W.S.A. §345.27 are inapplicable to such violations. Stipulations shall conform to the form contained on the uniform traffic citation and complaint under W.S.A. §345.11 and may be accepted within five (5) days of the date of the alleged violation. Stipulations may be accepted by the Police Department.

(c) Deposits. Any person stipulating guilt or no contest under subsection (b) of this section must make the deposit required under W.S.A. §345.26 or, if the deposit is not established under such statute, shall deposit a forfeited penalty as provided in the deposit schedule fixed by the Board of County Judges and approved by the Chief of Police. Deposits may be brought or mailed to the office of the Police Department as directed by the arresting officer. Deposits for parking or nonmoving violations shall be mailed or brought to the Police Department.
(Code 1965, §10.17(3); Ord 107-94, §1, 8-17-94)
**Cross reference(s)** - General penalty, §1-16; uniform citation for certain violations, §1-17; citation schedule of deposits, §1-18.

**Sec. 19-3. Obedience to traffic officers**.

The provisions of W.S.A. §346.04, regarding traffic officers, are hereby adopted by reference. No person shall fail or refuse to comply with any lawful order, signal or direction of a traffic officer. Lawful order shall include a vehicle equipment violation notice.
(Code 1965, §8.02(4)(c))

**Sec. 19-4. School crossing guards.**

(a) Those adult persons hired by the Police Department to act as school crossing guards shall have the authority to stop vehicular traffic and to keep it stopped as long as necessary at their respective school crossings for the purpose of permitting schoolchildren to cross the street.

(b) No person shall refuse or fail to comply with any lawful order, signal or direction of any adult school crossing guard.
(Code 1965, §10.11)
**Cross reference(s)** - Citation for violation of certain

ordinances, §1-17; schedule of deposits for citation, §1-18.
**State law reference(s)** - School crossing guards, W.S.A. §349.215; penalty for violations, W.S.A. §346.465.

**Sec. 19-5. Official traffic signs and signals**.

The Traffic Engineer is hereby authorized and directed to procure, erect and maintain appropriate standard traffic signs, signals and markings giving notice of the provisions of this chapter. Signs shall be erected in such locations and manner as authorized by the Common Council as to give adequate warning to users of the street, alley or highway in question. No provision of this chapter shall be enforced unless and until such signs are erected and in place and sufficiently legible to be seen by an ordinarily observant person.
(Code 1965, §10.19(1))

**Sec. 19-6. Authority to impose temporary regulations.**

The Chief of Police and the Director of Public Works, or their respective designees, are hereby authorized to impose temporary parking restrictions and temporary intersection control regulations on existing streets. Such temporary regulations may be enforced like other provisions of this chapter, and appropriate signs shall be erected in accordance with §19-5.

Any temporary signs posted by authorized agencies shall supersede all existing posted rules for the days and times specified. Regulations placed over parking meters so as to cover rate plates and the inside of the dome of the meter shall supersede all existing posted rules for the time the cover remains over the parking meter.
(Code 1965, §10.19(2); Ord 100-12, §1, 10-23-12)

**Sec. 19-7. Traffic regulations during disaster emergencies; emergency routes.**

(a) A disaster emergency is hereby declared to exist requiring a special regulation of vehicular traffic and parking, whenever there shall be declared by the authorities responsible for so doing either a disaster emergency alert, whether strategic or tactical, or a disaster emergency test exercise, necessitating the evacuation of persons from the City in order to properly provide for the public safety under such conditions. Such emergency is declared for a period of twenty-four (24) hours after the announcement of any strategic alert, for an indefinite period until revoked by proclamation of the Mayor or resolution of the Common Council after any tactical alert, and for a period commencing two (2) hours before and extending until four (4) hours after the conclusion of any announced test exercise.

(b) The disaster emergency escape routes to which the provisions of this section shall apply are those designated on such disaster emergency escape route plan of the City as may from time to time be adopted by the Common Council and as on file in the office of the Traffic Engineer.

(c) Notwithstanding any other provisions of this chapter, whenever a disaster emergency shall exist, the following traffic regulations shall apply:

(1) All lanes of each street or highway designated as a disaster emergency escape route, including those divided by a center strip, shall be restricted to one- (1-) way traffic moving in a direction from the center of the city toward its outer limits. No person shall operate any vehicle thereon in the opposite direction.

(2) No operator of any vehicle shall cross any disaster emergency escape route.

(3) No operator of any vehicle shall enter any disaster emergency escape route at any point except a point where entry is authorized on the escape route plan.

(4) No person shall park any vehicle or permit any vehicle to remain standing on any disaster emergency escape route.

(5) Because of the necessity for keeping all lanes of traffic open for the movement of vehicles under a disaster emergency, whenever any traffic officer shall find a vehicle parked or in any other way blocking the free movement of traffic over any disaster emergency escape route, he is authorized to move or direct the removal of such vehicle to a position off the escape route.

The Chief of Police is hereby authorized to promulgate appropriate detailed orders relative to control or immobilization of traffic during a disaster emergency, and upon the filing thereof with the City Clerk such requirements shall be a part of this section, of the same force and effect, and the penalties prescribed in this chapter shall apply to any violations of such orders.
(Code 1965, §10.10)

**Sec. 19-8. Vehicle locking equipment; leaving key in unattended vehicle.**

Every passenger motor vehicle shall be equipped with a

lock suitable to lock either the starting lever, throttle, steering apparatus, gearshift lever or ignition system. No person shall permit a passenger vehicle to stand or remain unattended on any street, alley or in any other public place, except an attended parking area, unless either the starting lever, throttle, steering apparatus, gear shift lever or ignition system of the vehicle is locked and the key for such lock is removed from the vehicle.
(Code 1965, §10.20)
**Cross reference(s)** - Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 19-9. Obstruction of street by trains.**

No person shall permit any railroad car, engine or tender on any railroad to stand or remain in any street in the City so as to obstruct the free passage of vehicles and pedestrians along such street and across such railroad track more than ten (10) minutes at any time, except the intersection of the railroad tracks and Second Street may not be obstructed more than thirty (30) minutes for the loading and unloading of passengers, mail and railway express.
(Code 1965, §10.16)
**Cross reference(s)** - Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 19-10. Obstruction of view at intersection by vegetation, fence, etc.**

(a) Vegetation or structures in terraces.

(1) All bushes, shrubs, weeds, vegetation, signs and fences, excepting trees on which limbs have been trimmed to a height of ten (10) feet above the ground, located in the terrace of any street within sixty (60) feet of the cross-street right-of-way in the approach direction and thirty (30) feet from the cross-street right-of-way in the nonapproach direction of any intersection in the City, are a public nuisance and dangerous to the safety and welfare of the people of the City. No new trees shall be planted in the terrace within the distances given in this subsection.

(2) The property owner or the person in possession of property abutting any street in the city within the distance from any intersection given in subsection (a)(1) of this section shall remove any such bushes, shrubs, weeds, vegetation, signs and fences and shall trim any trees to a height of ten (10) feet above the ground. Such bushes, shrubs, weeds or other vegetation, if not so removed, shall be removed by the City without notice and the expense thereof reported to the City Clerk, who shall enter the same on the tax roll as a special charge against the benefited property.

(b) Vegetation or structures on private property.

(1) No owner or occupant of any property abutting a public street shall permit any trees, shrubs, bushes, weeds, signs, structures, wall or fences on his property to be so placed and maintained as to obstruct the vision of a user of the street at its intersection with another street or public thoroughfare. There shall be a vision corner on all corner lots located in zoning districts that require a minimum twenty- (20-) foot setback from street property lines. The vision corner is described as the triangular area enclosed by a straight line connecting a point on each street right-of-way line, which point is twenty-five (25) feet from the intersection of the right-of-way lines. Fences, walls, signs or structures erected in such vision corners shall not exceed three (3) feet in height. The fence, wall, sign or structure shall be a minimum of two-thirds (2/3) open to vision, equally distributed throughout the fence length and height located within the defined vision corner. Plantings in such vision corners shall be maintained in such a fashion as to provide unobstructed vision from three (3) feet above the centerline elevation of the abutting pavement to ten (10) feet above the centerline elevation.

(2) The provisions of subsection (b)(1) of this section shall also apply to those corner lots located in zoning districts that require a ten- (10-) foot setback from street property lines, except in those cases the vision corner is described as the triangular area enclosed by a straight line connecting a point on each street right-of-way line, which point is twenty (20) feet from the intersection of the street right-of-way.

(Code 1965, §10.15, Ord 67-00, §1, 8-19-00)
**Cross reference(s)** - Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 19-11. Low-speed vehicles.**

(a) ***Definition***. Low-speed vehicle means a self-

propelled motor vehicle, excluding golf carts, that has successfully completed the Neighborhood Electric Vehicle America Test Program conducted by the Federal Department of Energy and that conforms to the definition and requirements for low-speed vehicles as adopted in the Federal Motor Vehicle Safety Standards for Low-speed Vehicle under 49 CFR 571.3(b) and 571.500 and which is authorized under Wis. Stat. §349.26.

(b) Low-speed vehicles may be operated on any highway within the city of Appleton where the maximum speed limit is thirty-five (35) miles per hour or less.

(c) All operators of low-speed vehicles shall conform to all regulations contained in this chapter, including the provisions of the state motor vehicles laws incorporated herein, except those provisions which by their express terms have no application to a low-speed vehicle.

(d) All operators of low-speed vehicles shall have a valid driver's license that allows them to operate in the State of Wisconsin.

(e) ***Penalty***. Any person who violates any provision of this section shall be punished by a forfeiture not to exceed one thousand dollars ($1,000) per occurrence.
(Ord 70-07, §1, 3-27-07; Ord 82-08, §1, 5-13-08; Ord 175-08, §1, 12-9-08; Ord 200-11, §1, 9-27-11)

**Secs. 19-12 – 19-40. Reserved.**

## ARTICLE II. REGULATIONS FOR SPECIFIC STREETS

### DIVISION 1. GENERALLY

**Sec. 19-41. Through streets.**

Through streets shall be those main traffic carriers with right-of-way priority which are designated by the Common Council and shown on a through street map which is on file in the office of the Traffic Engineer. The Common Council may make additions or deletions to the through street map in order to produce adequate through traffic routes as well as good internal traffic circulation. A through street is one on which all direct crossings are controlled by a stop sign or signal. Where two (2) or more through streets intersect, an engineering study will determine which traffic receives priority and what type of control is required. The through street map shall show the through streets and their terminal points. In addition the map shall show the type of control where two (2) or more through streets intersect. The through street map shall be kept on file in the office of the Traffic Engineer, who shall be responsible for keeping it current.
(Code 1965, §10.03)
**Cross reference(s)** - Streets, §16-36 et seq.

**Sec. 19-42. One-way streets**.

The Common Council may provide that traffic shall move in only one (1) direction on designated streets and alleys, such streets and alleys to be shown on an arterial street map on file in the office of the Traffic Engineer. Additions to such map shall be made by the Traffic Engineer.
(Code 1965, §10.13, Ord 74-00, §1, 9-9-00)
**Cross reference(s)** - Streets, §16-36 et seq.

**Sec. 19-43. No left turn intersections**.

No operator of a vehicle shall turn left on the following streets:

Appleton Street at Washington Street, northbound traffic.

College Avenue at Rankin Street, eastbound traffic.

College Avenue at Rankin Street, westbound traffic.

East approach of Commercial Street at Mason Street.

Eastbound College Avenue at private the driveway located on the north side of College Avenue approximately 250 feet west of Badger Avenue.

Front Street at South Memorial Drive, eastbound traffic.

Northbound traffic entering Calumet Street from the private driveway located on the south side of Calumet Street (approximately 705 feet west of Kensington Drive).

Northbound traffic entering College Avenue from the driveway located on the south side of at College Avenue, approximately 200 feet east of Badger Avenue.

Northbound traffic entering College Avenue from the driveway located on the south side of College Avenue, approximately 250 feet east of Linwood Avenue.

Northbound traffic entering Lake Park Road from the driveway located on the west side of Lake Park Road, at a location 110 feet south of Calumet Street.

South Badger Avenue at Memorial Drive, southbound traffic.

South Memorial Drive at Front Street, northbound traffic.

South Memorial Drive at Prospect Avenue, southbound traffic.

Southbound traffic entering College Avenue from the driveway located on the north side of at College Avenue (approximately 250 feet west of Badger Avenue).

State Street at the West College Avenue south alley, southbound traffic, from 10:00 p.m. to 3:00 a.m., except for police vehicles.

Westbound Calumet Street at private the driveway located on the south side of Calumet Street approximately 705 feet west of Kensington Drive.

Westbound traffic entering Kensington Drive from the private driveway located on the east side of Kensington Drive, at a location 180 feet south of Calumet Street.

(Code 1965, §10.14; Ord 158-89, §1, 12-6-89; Ord 29-91, §1, 3-20-91; Ord 106-02, §1, 7-9-02; Ord 37-04, §1, 3-23-04, Ord 13-07, §1, 2-13-07, Ord 14-07, §1, 2-13-07; Ord 100-07, §1, 6-26-07; Ord 72-08, §1, 4-8-08)

**Cross reference(s)** - Streets, §16-36 et seq.

**Sec. 19-44. No right turn intersections.**

No operator of a vehicle shall turn right on the following streets:

Lawrence Street at South Morrison Street, eastbound traffic.

Lawrence Street at South Morrison Street, westbound traffic.

(Code 1965, §10.22; Ord 159-89, §1, 12-6-89; Ord 102-92, §1, 9-2-92, Ord 15-07, §1, 2-13-07, Ord 16-07, §1, 2-13-07, Ord 17-07, §1, 2-13-07, Ord 18-07, §1, 2-13-07; Ord 56-07, §1, 3-13-07)

**Sec. 19-45. No turn on red light; intersections where**.

No operator of a vehicle shall turn on a red traffic signal at the following locations:

(1) Southbound Mason at Badger and Packard Streets.

(2) Northbound Mason at Badger and Packard Streets.

(3) Westbound Packard at Badger and Mason Streets.

(4) Eastbound Packard at Badger and Mason Streets.

(5) Northbound Badger at Mason and Packard Streets.

(6) Southbound Badger at Mason and Packard Streets.

(7) Southbound Story at Badger and College Avenue.

(8) Northbound Story at Badger and College Avenue.

(9) Northbound Badger at College and Story Streets.

(10) Southbound Badger at College and Story Streets.

(11) Westbound College at Badger and Story Streets.

(12) Eastbound College at Badger and Story Streets.

(13) Northbound Morrison Street at the YMCA parking ramp entrance.

(14) Northbound Oneida Street at Lawrence Street (left lane only).

(Ord 140-94, §1, 11-16-94: Ord 120-01, §1, 7-5-01: Ord 107-02, §1, 7-9-02; Ord 102-12, §1, 10-23-12)

**Secs. 19-46 – 19-55. Reserved**.

## DIVISION 2. SPEED LIMITS

### Sec. 19-56. State speed limits adopted.

The provisions of W.S.A. §346.57(4)(e), (f), (g), §346.58 and §346.59 relating to the maximum and minimum speed of vehicles are hereby adopted as part of this chapter as if fully set forth herein, except that the speed limits are increased or decreased upon the streets enumerated in this division to the limits designated.
(Code 1965, §10.02(1))

### Sec. 19-57. Speed limits designated – fifteen (15) miles per hour.

The speed limit shall be fifteen (15) miles per hour on the following streets:

Alley, south of Franklin Street between Story Street and Summit Street.

Ashbrook Street.

City Center Street between Appleton Street and Oneida Street.

Friendly Street.

Ivy Street.

Johnston Street, west 500 block and east 200 block.

Juniper Lane.

Oneida Street between City Center Street and Washington Street.

Primrose Lane.

Shasta Lane.

Vermillion Lane.
(Code 1965, §10.02(2); Ord 67-89, §1, 6-7-89; Ord 92-94, §1, 7-20-94; Ord 109-94, §1, 8-17-94)

### Sec. 19-58. Same – twenty (20) miles per hour.

The speed limit shall be twenty (20) miles per hour on the following streets:

Canvasback Circle; entire length.
(Ord 109-06, §1, 9-12-06)

**Sec. 19-59. Same – thirty (30) miles per hour.**

The speed limit shall be thirty (30) miles per hour on the following streets:

Alliance Drive from Milis Drive to Vantage Drive.

Badger Avenue, from Wisconsin Avenue to Memorial Drive.

Calumet Street, from Memorial Drive to seven hundred fifty (750) feet east.

Calumet Street, from Oneida Street to three hundred forty (340) feet east of Lake Park Road.

Capitol Drive from Ballard Road (CTH E) to Zuehlke Drive.

Conkey Street from Pershing Street to Venture Drive.

County Trunk Highway BB, from its intersection with Riverdale Street southwest to a point 0.20 mile west of its intersection with Seminole Drive.

East College Avenue, from the west end of East College Avenue Bridge to three hundred (300) feet east of Matthias Street.

Endeavor Drive from Lakeland Drive to Eisenhower Drive.

Executive Drive from Goodland Drive to Venture Drive.

Glendale Avenue from Sandra Street to a point 530 feet west of Sandra Street.

Goodland Drive from Conkey Street to Zuehlke Drive.

John Street, from College Avenue to Calumet Street.

Kensington Drive, from Calumet Street to Lake Park Road.

Lake Park Road, from Calumet Street to Plank Road.

Lakeland Road from Plank Road to Vantage Drive.

Lynndale Drive, from Spencer Street south to the railroad tracks.

Marshall Road from Winslow Avenue to Capitol Drive.

Milis Drive from Quest Drive to Alliance Drive.

Newberry Street, from the east City limits to Joseph Street.

North Meade Street, from Wisconsin Avenue to Capitol Drive.

North Richmond Street, from 0.1 mile north of Marquette Street to College Avenue.

Oneida Skyline, from Prospect Avenue south to Oneida Street.

Oneida Street, from Oneida Skyline to U.S. 441.

Pensar Drive from Roemer Road, westerly to cul-de-sac.

Pershing Street from Conkey Street to Sandra Street.

Pointer Road from Pensar Drive to Capitol Drive.

Progress Drive from Winslow Avenue to Capitol Drive.

Quest Drive from Plank Road to Midway Road.

Roemer Road from Northland Avenue (CTH OO) to Capitol Drive.

Sandra Street from Pershing Street to Glendale Avenue.

South Memorial Drive, from College Avenue to Calumet Street.

Vantage Road from Quest Drive to Lakeland Drive.

Venture Drive from Conkey Street to Executive Drive.

West College Avenue, from Linwood Avenue to Badger Avenue.

West Wisconsin Avenue, from Richmond Street to Badger Avenue.

Winslow Avenue from Roemer Road to Zuehlke Drive.

Zuehlke Drive from Winslow Avenue to Goodland Drive.

(Code 1965, §10.02(3), Ord 8-96, §1, 2-7-96; Ord 6-98, §1, 2-4-98; Ord 11-01, 1-22-01, Ord 106-04, §1, 8-10-04; Ord 126-05, §1, 11-8-05; Ord 127-05, §1, 11-8-05; Ord 128-05, §1, 11-8-05; Ord 129-05, §1, 11-8-05; Ord 122-06, §1, 10-

10-06; Ord 123-06, §1, 10-10-06, Ord 34-07, §1, 2-27-07; Ord 35-07, §1, 2-27-07; Ord 36-07, §1, 2-27-07; Ord 37-07, §1, 2-27-07; Ord 38-07, §1, 2-27-07; Ord 39-07, §1, 2-27-07; Ord 40-07, §1, 2-27-07; Ord 41-07, §1, 2-27-07; Ord 42-07, §1, 2-27-07; Ord 43-07, §1, 2-27-07; Ord 44-07, §1, 2-27-07; Ord 45-07, §1, 2-27-07; Ord 46-07, §1, 2-27-07; Ord 47-07, §1, 2-27-07; Ord 48-07, §1, 2-27-07; Ord 8-08, §1, 2-26-08; Ord 103-12, §1, 10-23-12)

**Sec. 19-60. Same – thirty-five (35) miles per hour.**

The speed limit shall be thirty-five (35) miles per hour on the following streets:

Ballard Road from Wisconsin Avenue to Edgewood Drive (C.T.H. JJ).

Calumet street from STH 441 to a point three hundred forty (340) east of Lake Park Road.

College Avenue from Linwood Avenue west to the west corporate limits.

Coop Road, from Garnet Drive to south City limits.

East Wisconsin Avenue, from Owaissa Street to the east corporate limits.

East Wisconsin Avenue, from railroad overpass to Owaissa Street.

Eisenhower Drive from Calumet Street to the south City limits.

Evergreen Drive from Ballard Road to French Road.

French Road from Edgewood Drive to a point 830 feet south of Evergreen Drive.

Glendale Avenue, from Ballard Road east to the railroad spur line approximately two thousand three hundred (2,300) feet east of Roemer Road.

Kensington Drive from Radio Road to Newberry Street.

Meade Street from Capitol Drive to north City limits.

Midway Road from the west City limits to the east City limits.

Midway Road from Oneida Street to Huckleberry Street.

Plank Road from Midway Road to Eisenhower Drive.

Richmond Street, from Northland Avenue to the north City limits.

Roemer Road, from Northland Avenue to Glendale Avenue.

South Memorial Drive, from Valley Road to Calumet Street.

South Oneida Street from U.S. 441 to S.T.H. 115.

Richmond Street, from the north construction limits of the City north of Marquette Street (0.10 mile) north to its intersection with County Trunk Highway OO.

(Code 1965, §10.02(4); Ord 50-88, 7-23-88; Ord 81-91, §1, 8-21-91; Ord 90-91, §1(a), 9-18-91; Ord 2-92, §1, 1-22-92; Ord 76-94, §1, 7-9-94; Ord 110-94, §1, 8-17-94; Ord 118-94, §1, 9-7-94, Ord 8-96, §1, 2-7-96; Ord 50-97, §1, 6-4-97; Ord 101-97, §1, 12-17-97; Ord 45-98, §2, 4-22-98; Ord 35-00, §1, 5-20-00: Ord 140-01, §1, 8-20-01; Ord 19-04, §1, 2-10-04; Ord 25-04, §1, 2-24-04, Ord 20-07, §1, 2-13-07; Ord 9-08, §1, 2-26-08; Ord 158-09, §1, 10-13-09; Ord 136-10, §1, 9-21-10; Ord 80-11, §1, 4-12-11; Ord 104-12, §1, 10-23-12; Ord 125-12, §1, 11-27-12)

**Sec. 19-61. Same – forty (40) miles per hour.**

The speed limit shall be forty (40) miles per hour on the following streets:

College Avenue from STH 441 to a point three hundred (300) feet east of Matthias Street.

East College Avenue, from three hundred (300) feet east of Matthias Street to seven hundred fifty (750) feet east of Kensington Drive.

Lake Park Road from Plank Road south to the south City limits.

Northland Avenue (County Trunk Highway OO) from Ballard Road to the east City limits.

Northland Avenue (County Trunk Highway OO), from Mason Street to Meade Street.

(Code 1965, §10.02(5); Ord 38-91, §1, 4-17-91; Ord 90-91, §1, 9-18-91; Ord 24-93, §1, 2-17-93; Ord 111-94, §1, 8-17-94; Ord 112-94, §1, 8-17-94; Ord 119-94, §1, 9-7-94; Ord 8-96, §1, 2-7-96; Ord 45-98, §1, 4-22-98; Ord 12-01, 4-22-01; Ord 159-09, §1, 10-13-09; Ord 105-12, §1, 10-23-12)

**Sec. 19-62. Same – forty-five (45) miles per hour.**

The speed limit shall be forty-five (45) miles per hour on the following streets:

Calumet Street from three hundred forty (340) feet east of Lake Park Road to the east City limits.

French Road from Edgewood Drive to the north City limits.

French Road from the south City limits to a point 830 feet south of Evergreen Drive.

Northland Avenue (County Trunk Highway OO), from Meade Street to Ballard Road (County Trunk Hwy E).
(Code 1965, §10.02(6); Ord 5-91, §1, 1-23-91; Ord 18-91, §1, 3-6-91; Ord 24-93, §1, 2-17-93; Ord 179-93, §1, 11-3-93; Ord 76-97, §1, 9-17-97; Ord 45-98, §1, 4-22-98; Ord 26-04, §1, 2-24-04; Ord 137-10, §1, 9-21-10; Ord 81-11, §1, 4-12-11)

**Sec. 19-63. Same – fifty (50) miles per hour.**

The speed limit shall be fifty (50) miles per hour on the following streets:

Northland Avenue (County Trunk Highway OO), from Mason Street to the west City limits.
(Code 1965, §10.02(7); Ord 12-91, §1, 1-20-91)

**Secs. 19-64 – 19-85. Reserved.**

## ARTICLE III. STOPPING, STANDING AND PARKING

### DIVISION 1. GENERALLY

**Sec. 19-86. Authority to impose parking restrictions; parking district map.**

Parking limitations and restrictions may be enacted by the Common Council and shall be shown on the Parking District Map on file in the office of the Traffic Engineer. Additions to and deletions from such map, when directed by the Common Council, shall be made by the Traffic Engineer.
(Code 1965, §10.04(1))

**Sec. 19-87. Holidays.**

Whenever a parking restriction or limitation excludes holidays, holiday shall mean the days set forth in §19-108.
(Code 1965, §10.04(3))

**Sec. 19-88. Enforcement of parking restrictions; meter checkers.**

The Director of Public Works is authorized to hire the necessary number of meter checkers to enforce the ordinances relating to parking meters and restricted and prohibited parking areas.

(a) The meter checkers are empowered to take all necessary actions to enforce parking ordinances, including but not limited to issuance of parking tickets, marking or chalking tires and issuing citations for violations of this chapter.

(b) The Director of Public Works and/or his/her designee are empowered to issue any citations and take all other actions necessary to enforce ordinances relating to restricted and prohibited parking areas, including parking restrictions at all sites with temporary signage.
(Code 1965, §10.07(9)(a) ; Ord 143-07, §1, 9-11-07 ; Ord 165-08, §1, 10-21-08 ; Ord 110-12, §1, 10-23-12)

**Sec. 19-89. Interfering with enforcement actions.**

(a) No person shall interfere with the enforcement actions of the meter checkers, nor shall any person erase, obliterate, cover up or remove chalk marks placed on tires by meter checkers for enforcement purposes, other than by normal use of the motor vehicle after it is moved from the parking space.

(b) No person shall move his motor vehicle within a parking space for the purpose of extending or avoiding the

parking time limit, nor shall he reoccupy the same space unless the motor vehicle is moved at least one hundred (100) feet.

(Code 1965, §10.07(9)(b), (c) ; Ord 111-12, §1, 10-23-12)

**Cross reference(s)** - Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 19-90. Parking violation forfeitures.**

(a) Any person to whom a ticket has been issued for violation of any overtime parking regulation shall incur a forfeiture of thirty-five dollars ($35.00), which forfeiture may be paid by depositing twenty dollars ($20.00) and the ticket in a City fine box or to the Director of Finance's office within ten (10) days of the date of the ticket.

(b) Any person to whom a ticket has been issued for any prohibited parking during a special event, or for stopping, standing or parking around schools, shall incur a forfeiture of fifty-five dollars ($55.00), which forfeiture may be paid by depositing forty dollars ($40.00) and the ticket in a City fine box or the Director of Finance's office within ten (10) days of the date of the ticket. Any person to whom a ticket has been issued for any other prohibited area parking regulation of the City shall incur a forfeiture of thirty-five dollars ($35.00), which forfeiture may be paid by depositing twenty dollars ($20.00) and the ticket in a City fine box or the Director of Finance's office within ten (10) days of the date of the ticket.

(c) Any person to whom a ticket has been issued for violation of W.S.A. §346.505, pertaining to handicap parking, shall incur a forfeiture of three hundred dollars ($300.00), which forfeiture may be paid by depositing three hundred dollars ($300.00) and the ticket in a City fine box or the Director of Finance's office within ten (10) days of the date of the ticket.

(d) Any person to whom a ticket has been issued for violation of parking in an area designated no parking, for parking too close to a driveway or crosswalk, for parking on posted private property or any other parking restriction for which a forfeiture is not otherwise specifically established in this division, shall incur a forfeiture of thirty-five dollars ($35.00), which forfeiture may be paid by depositing twenty dollars ($20.00) dollars and the ticket in a City fine box or the Director of Finance's office within ten (10) days of the date of the ticket.

(e) Any person to whom a ticket has been issued for violation of parking in an area from 2:00 a.m. to 5:00 a.m. shall incur a forfeiture of forty dollars ($40.00), which forfeiture may be paid by depositing twenty-five dollars ($25.00) and the ticket in a City fine box or the Director of Finance's office within ten (10) days of the date of the ticket.

(f) Any person to whom was issued their first and second ticket in any calendar year for a violation of any meter parking regulation shall incur a forfeiture of twenty dollars ($20.00), which forfeiture may be paid by depositing five dollars ($5.00) and the ticket in a City fine box or to the Director of Finance's office within ten (10) days of the ticket.

(g) Any person to whom was issued their third through fifth ticket in any calendar year for a violation of any meter parking regulation shall incur a forfeiture of twenty-five dollars ($25.00), which forfeiture may be paid by depositing ten dollars ($10.00) and the ticket in a City fine box or to the Director of Finance's office within ten (10) days of the ticket.

(h) Any person to whom was issued their sixth ticket, or any ticket thereafter, in any calendar year for a violation of any meter parking regulation shall incur a forfeiture of sixty-five dollars ($65.00), which forfeiture may be paid by depositing fifty-five dollars ($50.00) and the ticket in a City fine box or to the Director of Finance's office within ten (10) days of the ticket.

(i) Any person wanting to contest a parking ticket shall first, within ten (10) days of the date of issuance, file an application for administrative review with the City Parking Utility. Following the administrative review, any person who is not satisfied with the results of that review shall submit a written request for judicial review to the City Parking Utility. The request for judicial review shall be submitted within thirty (30) days from the date the ticket was issued, or within ten (10) days after the administrative review is completed, whichever is later. When a timely request for administrative or judicial review is not filed, the ticket shall be presumed to be uncontested. Forfeitures shall be paid within ten (10) days of the ticket's issuance or, an action may be commenced by the City in accordance with the uniform traffic procedure for nonmoving violations as set forth in Sec. 345.28, Stats. and it may forward the matter to the State Department of Transportation for enforcement under the state traffic violation and registration program.

(j) When a vehicle is the subject to seven (7) or more outstanding, unpaid parking tickets issued in accordance with this section, the vehicle may be considered in chronic violation of the parking ordinances until such time that all outstanding parking tickets are paid in full. Further, upon a subsequent violation, a vehicle considered in chronic violation of the parking ordinance pursuant to this section may be towed and impounded at the owner's expense.

(Code 1965, §10.17(2); Ord 4-93, §1, 1-6-93; Ord 142-93, §1, 9-15-93; Ord 143-93, § 1, 9-15-93; Ord 144-93, §1, 9-15-93; Ord 154-93, §1, 9-15-93; Ord 155-93, §1, 9-15-93; Ord 137-95, §1, 12-20-95; Ord 154-01, §1, 9-10-01, Ord 68-05, §1, 5-7-05; Ord 107-05, §1, 1-1-06; Ord 122-05, §1, 1-1-06; Ord 96-10, §1, 6-22-10; Ord 103-10, §1, 1-1-11; Ord 112-12, §1, 10-23-12)

**Cross reference(s)** - Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 19-91. Parking in front and side yard in residential district; parking on terraces.**

(a) ***Purpose***. The purpose of this section is to clearly define acceptable areas for parking vehicles within the front yard or side yard, as defined in Chapter 23, of private properties in order to address off-street parking issues and maintain the acceptable appearance of City neighborhoods.

(b) ***Residential driveway.*** Residential driveway means that area leading directly from the street to a garage, carport, or rear yard parking area.

(c) ***Front yard.*** No person shall park or store any motor vehicle, or recreational vehicle of 26 feet or less, i.e., a "camping trailer", "fifth-wheel trailer", "motor home" or "recreational vehicle" as those terms are defined by §340.01, Stats., as well as boat trailers and boats, utilities trailers, trailered snowmobiles, trailered jet-ski(s) or fishing shanties in the front yard of any residential district except upon a residential driveway and shall be subject to temporary recreational vehicle parking restrictions set forth in §19-92. No recreational vehicle or boat greater than 26 feet in length may be parked or stored in the front yard of any residential district. Any vehicle parked in the front yard, shall be parked within the driveway area in such a manner as to maintain all wheels on the driveway surface, and shall neither obstruct the sidewalk nor extend onto the driveway apron. All driveways on one- (1-) and two- (2-) family residential properties, as well as those properties with three (3) dwelling units, shall be paved with concrete, asphalt, brick or a similar hard surface within one (1) year of construction. Carriage style driveways with a minimum of 2-foot wide strips paved with concrete, asphalt or brick and maintained grass medians in accordance with Sec. 12-59(c)(3) are permitted. Those existing driveways on one- (1-) and two- (2-) family properties, as well as those properties with three (3) dwelling units, that are not currently paved as described for new driveways shall be so paved within one (1) year of notice of non-compliance. (Ord 84-15, §1, 10-27-15)

(d) ***Side yard.*** No person shall park or store any motor vehicle, "camping trailer", "fifth-wheel trailer", "motor home" or "recreational vehicle" as those terms are defined by §340.01, Stats., as well as boat trailers and trailered boats, pick-up camper tops, utilities trailers, trailered snowmobiles, trailered jet-ski(s) or fishing shanties in the side yard of any residential district unless the side yard parking area is no greater than twelve (12) feet wide and extends no farther than the rear plane of the principal structure on the property. Side yard parking areas are required to be hard surfaced and subject to the requirements of this section, including the requirement for a permit for the installation of said hard surface.

(e) ***Permits***. The Inspections Supervisor shall issue a driveway extension permit or a side yard parking pad permit upon the filing of a proper application, which shall be on a form furnished by the Director and shall describe the nature of the work, material to be used, measurements, plans and/or specifications of the proposed extension as well as such other information as may be required for inspection. Permits shall be issued prior to the start of the work. Fees for this permit shall be kept on file with the City Clerk.

(f) Extensions to the driveway surface, beyond the area previously described in section (d), are permissible provided all of the following apply:

(1) The property owner has obtained appropriate driveway extension permit; and,

(2) Both the extension and driveway are paved as provided in sec. (d) above; and,

(3) The extension is no greater than twelve (12) feet wide; and,

(4) The paved area is no longer than the length of the driveway, extending from the edge of the City's right-of-way to a carport, rear yard parking area or garage. For the purpose of creating a parking pad, the paved area may extend along the side of the principal structure on the property and may extend to the rear plane of said structure; and,

(5) Whenever practicable, the extension shall be located on the side of the driveway such that it extends toward the nearest side lot line. When such a configuration is not possible, the property owner may install an extension no greater than four (4) feet into the greater front yard. Any extension into the greater front yard of the property that is more than four (4) feet wide shall require approval from the

Municipal Services Committee.

(6) This section shall not apply toward paved circular driveways.

(7) The paved area shall meet any other requirements of the Municipal Code including, but not limited to, zoning requirements and the Driveway Installation Policy.

(g) Appeals to the requirements of this section shall be filed with the Inspections Supervisor and heard by the Municipal Services Committee. In hearing and deciding appeals, the Committee shall have the power to grant relief from the terms of this section only where there are unusual and practical difficulties or undue hardships due to an irregular shape of the lot, topographical, or other conditions present, as contrasted with merely granting an advantage or convenience. Decisions of the Committee shall be consistent with the purpose and intent of this section.

(h) Relief granted by the Municipal Services Committee, pursuant to (g) above, shall run with the land. (Ord 85-15, §1, 10-27-15)

(i) Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in §1-16 of the Municipal Code.
(Code 1965, §10.04(2); Ord 179-02, §1, 8-27-02, Ord 16-05, §1, 2-22-05; Ord 126-06, §1, 10-10-06; Ord 156-10, §1, 10-26-10; Ord 157-10, §1, 10-26-10; Ord 159-10, §1, 11-9-10, Ord 144-11, §1, 6-7-11)
**Cross reference(s)** - Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 19-92. Recreational and commercial vehicle parking and storage in residential district.**

(a) ***Definitions.*** For the purposes of this section, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise.

***Recreational vehicle*** means a "camping trailer", "fifth-wheel trailer", "motor home" or "recreational vehicle" as those terms are defined by §340.01, Stats. It also includes trailers and boats, pick-up camper tops, utilities trailers, trailered snowmobiles, trailered jet-ski(s) or fishing shanties.

(b) When associated with residential dwellings:

(1) The outdoor storage of a commercial vehicle or commercial trailer shall be restricted to a vehicle or trailer owned or leased by the occupant(s) of the lot upon which the vehicles are stored.

(2) The enclosed parking or storage of not more than one (1) commercial or service vehicle rated at Class A – D may be permitted within an attached garage, attached carport, detached garage, and/or detached carport, provided that such vehicle is used by the occupant(s) of the lot upon which the vehicle is parked or stored.

(3) The outdoor parking or storage of not more than one (1) commercial or service vehicle rated at Class A – D or school bus, may be permitted, provided that such vehicle is parked or stored in the side yard and/or rear yard only and used by the occupant(s) of the lot upon which the vehicle is parked or stored.

(4) ***Recreational vehicle storage.*** The outdoor storage of not more than one (1) recreational vehicle in areas other than those addressed in §19-91 may be permitted provided:

a. Such recreational vehicle is owned or leased by the occupant(s) of the lot upon which the recreational vehicle is stored.

b. Such recreational vehicle shall not be used for business, living, sleeping, or housekeeping purposes.

c. Such recreational vehicle shall not be permanently connected to sewer lines, water lines, or electricity.

d. Such recreational vehicle shall not be used for the storage of goods, materials or equipment not normally a part of or essential to the immediate use in that vehicle or trailer.

(c) ***Recreational vehicle parking in front yard***. Unoccupied recreational vehicles of 26 feet in length or less as defined in §19-92 may be parked in a front yard driveway.
(Code 1965, §11.15(3)(c); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 131-96, §1, 12-18-96; Ord 145-11, §1, 6-7-11)

**Sec. 19-93. Nighttime parking on street or alley**.

No operator of any vehicle shall park the vehicle upon any street or alley between 2:00 a.m. and 5:00 a.m. without permission by the Police Department or in cases of construction a permit may be given by the Department of Public Works. Any vehicle parked in violation of this section may be towed at the owner's expense.
(Code 1965, §10.05; Ord 18-96, §1, 3-06-96; Ord 57-99, §1, 8-22-99)

**Cross reference(s) -** Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 19-94. Snow emergencies**.

(a) Definitions. For purposes of this section:

***Emergency snowstorm*** means one in which snow is falling in such manner as to produce a congestion of traffic or impede the operation of emergency vehicles.

***Emergency vehicles*** include police squad cars, firefighting apparatus, ambulances, rescue squad cars and City-owned or City-hired snowplows, snow removal equipment and machinery or emergency vehicles.

(b) ***Declaration of emergency***. During emergency snowstorms or when the City has experienced heavy snowfalls in which the accumulation of snow has narrowed streets or impeded normal traffic flow, the Mayor or, in his absence, the Director of Public Works or designee thereof may declare a snow emergency and may impose emergency parking restrictions while the emergency is in effect. Notice of the emergency shall, whenever practicable, be provided by publication in a newspaper, announcement over the radio or television, electronic communication or by other appropriate or convenient means.
(Ord 30-99, §1, 5-8-99)

(c) ***General parking restrictions***. During the following snow emergencies certain parking restrictions shall be enforced and vehicles found in violation may be ticketed and towed at the owner's expense:

(1) Class I – During a class I snow emergency there shall be no parking on any City street from 2:00 a.m. to 5:00 a.m. The Police Department's authority to grant permission to park on City streets between 2:00 a.m. and 5:00 a.m. shall be suspended for the duration of the snow emergency. Regular parking restrictions shall apply beginning at 5:00 a.m. and ending at 2:00 a.m. the following day.

(2) Class II – During a class II snow emergency there shall be no parking on any City street from 2:00 a.m. to 5:00 a.m., and at all other times parking is restricted to the even-numbered side of the street on even-numbered days and to the odd-numbered side of the street on odd-numbered days. Day means the period of time beginning at 5:00 a.m. and ending at 2:00 a.m. the following day.

(3) Class III – During a class III snow emergency there shall be no parking on any City street at any time.

(4) A snow emergency shall remain in effect until it is withdrawn by the issuing authority.

(Code 1965, §10.09, Ord 108-04, §1, 8-10-04 ; Ord 5-12, §1, 2-7-12)

**Sec. 19-95. Loading zones.**

(a) ***Truck loading zones.***

(1) Truck loading zones are established to prevent double parking and other illegal parking by designating a supply of parking spaces dedicated to the delivery of merchandise by truck to commercial properties.

(2) While being actively loaded or unloaded, motor vehicles that are designed, used or maintained primarily for the transportation of property and displaying commercial signage, may park in a truck loading zone for no more than thirty (30) minutes.

a. Commercial signage required by this section must be:

1. On both sides of the vehicle;

2. Magnetic, static cling vinyl (which may not be used on tinted windows), decals or permanently painted;

3. No smaller than 8 ½" by 11";

4. In 2-inch or larger lettering;

5. In a color that clearly contrasts with the color on which the lettering is displayed; and

6. In lettering that is clearly visible at a distance of twenty (20) feet.

(b) ***Passenger loading zones.***

(1) Passenger loading zones are established for the purpose of the expeditious loading or unloading of passengers.

(2) Motor vehicles may park in a passenger loading zone for no more than ten (10) minutes, unless a different period of time is designated by ordinance.

(Ord 130-12, §1, 12-11-12)

**Secs. 19-96 – 19-105. Reserved**.

## DIVISION 2. PARKING METERS AND CITY PARKING FACILITIES

**Sec. 19-106. City-owned parking facilities.**

The property owned by the City and used as public parking facilities for vehicles shall be described as follows:

(1) Yellow Ramp.

(2) Red Ramp.

(3) Parking Lot No. 9: the lot situated on the west side of South Walnut in the 100 block.

(4) Library Plaza: the library parking lot. The parking lot is adjacent to the library and bounded on the east by North Oneida Street and on the west by North Appleton Street.

(5) Blue Ramp.

(6) Green Ramp.

(Code 1965, §10.06(1); Ord 136-89, §1, 10-18-89; Ord 145-93, §1, 9-15-93; Ord 146-93, §1, 9-15-93; Ord 137-95, §1, 12-20-95; Ord 155-01, §1, 9-10-01; Ord 102-10, §1, 7-13-10; Ord 113-12, §1, 10-23-12)

**Sec. 19-107. Parking meters and pay stations – generally.**

(a) The Common Council may authorize the installation, regulation, control, maintenance and use of parking meters and pay stations in the streets, public parking lots or public parking ramps. Parking meters shall be placed next to individual parking places and shall display the hours and days of operation. Pay stations shall be located in the vicinity of the parking stalls which are controlled by it and shall also display the hours and days of operation.

(b) Each parking meter shall be so set as to display a signal showing legal parking upon the deposit of funds as specified in this section. Each meter shall be so arranged that, upon the expiration of the parking limit, it will indicate that the lawful parking period as fixed by the ordinance of the City has expired.

(c) When any vehicle shall be parked in a parking space next to a parking meter under the provisions of this section, the owner or operator of the vehicle shall, upon entering the parking space, immediately deposit in the parking meter the required funds, and the person may use the parking space for the vehicle during the time limit or a fractional part thereof as provided in this division. If a vehicle remains parked in any parking space beyond the limit

fixed by the ordinance of the City for such parking space, or fractional part thereof, depending on the funds deposited, the parking meter shall display a sign showing illegal parking and in that event such vehicle shall be considered as having been parked overtime and beyond the time fixed in the ordinance by the City and the parking of a vehicle overtime or beyond the time fixed by the ordinance of the City in any such part of a street where any such meter is located shall be in violation of this section.

(d) No person shall deposit funds in a meter for the purpose of extending the parking time beyond the time limit fixed in this division for parking in the parking space for which a parking meter is placed.

(e) Official markings. When markings upon the curb or the pavement of a street designate a parking space, no person shall stand or park a vehicle in such designated parking space so that any part of the vehicle occupies more than one space or protrudes beyond the markings designating such a space, except that a vehicle which is of a size too large to be parked within a single designated parking space shall be parked with the front bumper at the front of the space with the rear of the vehicle extending as little as possible into the adjoining space to the rear, or vice-versa, and shall be responsible for depositing the required funds into the parking meters for both occupied stalls. Notwithstanding the above, no vehicle that is too long and/or too wide to be parked within a single designated parking space shall be parked in such a space which is designated for angle parking.

(f) No person shall deposit or cause to be deposited in any parking meter any slug, device or metallic substitute for a coin of the United States with the exception of City-approved tokens.

(g) No person shall deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under this section.

(h) All parking meter and parking pay station revenues shall be kept in a separate fund called the parking revenue fund. The purpose of the fund shall be for the purchase, maintenance, operation, enforcement, administration and construction of all parking facilities. The Common Council may, from time to time, direct the fund to be used for other purposes relating to parking facilities, including the right to pledge parking revenues for the payment of bonds issued for the construction of parking facilities. No unexpended funds are to be returned to the general funds. All earnings, upon the investment of unexpended funds, shall constitute an addition to the fund.

(i) "Parking Pay Stations"

(1) No person shall, in any parking space controlled by a "Parking Pay Station," park a vehicle without purchasing the amount of parking time desired from such machine.

(2) No person shall, in any parking space controlled by a "Parking Pay Station," which allows a person to purchase the amount of parking time desired from a machine that dispenses a receipt, park a vehicle in excess of the amount of time indicated on such receipt, or on posted signs.

(Code 1965, §10.07(1) - (8); Ord 137-95, §1, 12-20-95; Ord 114-12, §1, 10-23-12)

**Cross reference(s)** - Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; director of public works, §2-291 et seq.

**Sec. 19-108. Same – suspension of fees on certain days.**

All parking meter fees will be suspended for the twenty-four- (24-) hour period beginning at midnight preceding and ending at midnight following on Sundays and on the following holidays:

(1) New Year's Day.

(2) Memorial Day.

(3) Independence Day.

(4) Labor Day.

(5) Thanksgiving Day.

(6) Christmas Day.

(Code 1965, §10.07(12))

**Sec. 19-109. Hours of operation of metered parking facilities.**

(a) On-street metered parking: 9:00 a.m. to 6:00 p.m. Monday through Saturday, excluding City observed holidays (see §19-108).

(b) Off-street metered parking lots: 9:00 a.m. to 6:00 p.m. Monday through Saturday, excluding City observed holidays (see §19-108).

(c) Blue Ramp: 9:00 a.m. to 9:00 p.m. Monday through Saturday, excluding City observed holidays (see §19-108).

(Code 1965, §10.07(10)(a); Ord 71-89, §1(A), 6-7-89; Ord

36-92, §1, 3-18-92; Ord 137-95, §1, 12-20-95; Ord 156-01, §1, 9-10-01; Ord 22-04, §1, 2-10-04; Ord 115-12, §1, 10-23-12; Ord 531-15, §1, 6-23-15)

**Sec. 19-110. Metered on-street parking.**

The time limits for operation of parking meters are as authorized by the Common Council and as specified on individual meters.

(a) ***Red head meters – Fee***. A rate of fifty cents ($0.50) for thirty (30) minutes shall apply to all spaces marked with red head meters in the Central Business District.

(b) ***Non-red head meters – Fee***.

1. For all on-street meters north of Washington Street, a rate of twenty cents ($0.20) for each hour shall apply to all spaces marked with non-red head meters.

2. All other meters shall have a rate of seventy-five cents ($0.75) for each hour and shall apply to all spaces marked with non-red head meters.

(Code 1965, §10.07(10)(b); Ord 107-91, §1, 10-16-91; Ord 115-91, §1, 11-6-91; Ord 147-93, §1, 9-15-93; Ord 148-93, §1, 9-15-93; 137-95, §1, 12-20-95; Ord 23-04, §1, 2-10-04; Ord 104-10, §1, 1-1-11; Ord 64-13, §1, 8-13-13; Ord 54-15, §1, 6-23-15)

**Sec. 19-111. Metered off-street parking.**

The time limits for operation of parking meters are as authorized by the Common Council and as specified on individual meters.

(a) ***Library lot fees***. A rate of seventy-five cents ($0.75) per hour shall apply to all non-red head meters in the Library lot. A rate of fifty cents ($0.50) for thirty minutes shall apply to all spaces marked with red head meters in the Library lot.

(b) ***Lot #9 fees***. A rate of seventy-five cents ($0.75) per hour shall apply to all metered spaces in Lot #9.

(c) ***Blue Ramp fees***. A rate of seventy-five cents ($0.75) per hour shall apply to all metered spaces in the Blue Ramp.

(Code 1965, §10.07(11)(a), (b); Ord 138-89, §1, 10-18-89; No. of 1-24-90; Ord 114-91, §1, 11-6-91; Ord 36-92, §2, 3-18-92; Ord 118-93, §1, 7-21-93; Ord 149-93, §1, 9-15-93; Ord 150-93, §1, 9-15-93; Ord 181-93, §1, 11-3-93; Ord 157-01, §1, 9-10-01; Ord 24-04, §1, 2-10-04; Ord 105-10, §1, 1-1-11; Ord 116-12, §1, 10-23-12; Ord 65-13, §1, 8-13-13)

**Sec. 19-112. Non-metered off-street parking.**

(a) The rates and regulations for non-metered off-street parking facilities owned by the City may be established by the Common Council and shall be on file in the office of the Department of Public Works.

(b) Any vehicle which has not been moved and/or is left unattended in any City-owned non-metered off-street parking facility for more than thirty (30) days shall be considered to be abandoned, and shall be dealt with pursuant to the provisions of Chapter 12, Article V of this Municipal Code.

(Code 1965, §10.07(11)(a); Ord 137-89, §1, 10-18-89; Mo. of 1-24-90; Ord 36-92, §3, 3-18-92; Ord 151-93, §1, 9-15-93; Ord 117-12, §1, 10-23-12)

**Sec. 19-113. Parking permits**.

(a) ***Sale of permits; types***. Except as otherwise provided in this section, off-street parking permits shall be issued by the Department of Public Works. The types of permits and the cost for the different types of permits shall be on file in the Department of Public Works.

(b) – (i) Reserved.

(Code 1965, §10.07(11)(c); Ord 86-88, §(a) - (d), 8-17-88; Ord 71-89, §1(c), (d), 6-7-89; Ord 124-89, §1, 9-20-89; Ord 139-89, §1, 10-18-89; Ord 176-89, §1, 12-20-89; Ord 64-90, §1, 8-8-90; Ord 36-92, §§4 - 7, 3-18-92; Ord 4-93, §1, 1-6-93; Ord 27-93, §1, 2-17-93; Ord 119-93, §1, 7-21-93; Ord 120-93, §1, 7-21-93; Ord 152-93, §1, 9-15-93; Ord 182-93, §1, 11-3-93; Ord 118-12, §1, 10-23-12)

**Sec. 19-114. Loitering in off-street parking facilities prohibited**.

No person shall enter, remain in or upon, loiter, stand, sit, lie, remain or otherwise occupy any off-street parking facilities except for the purpose of motor vehicle parking and

the necessary ingress and egress for parking.
(Code 1965, §10.07(11)(c)(1)(a.4)
**Cross reference(s)** - Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Secs. 19-115 – 19-135. Reserved.**

## ARTICLE IV. TRUCK ROUTES

**Sec. 19-136. Generally**.

The Common Council may designate heavy traffic routes other than state trunk highways for the movement of commercial motor vehicles. Whenever such heavy traffic routes shall be established, the Traffic Engineer shall certify such routes to the Chief of the Police Department. The routes so established shall be known as truck routes and the operator of any commercial motor vehicle having a gross weight of at least fifteen thousand (15,000) pounds, other than buses, shall drive on such routes and no other except when it is impractical to do so or when necessary to obtain orders for supplies or for moving or delivering supplies or commodities to or from any place of business or residence fronting on any such route.
(Code 1965, §10.12)

**Sec. 19-137. Routes enumerated**.

The truck routes established pursuant to this article are as follows:

Alliance Drive from Milis Drive to Vantage Drive.

Appleton Street from Washington Street to Lawrence Street.

Badger Avenue from Wisconsin Avenue to Memorial Drive.

Ballard Road from Wisconsin Avenue to the north City limits.

Bluemound Drive from College Avenue to the north City limits.

Calumet Street from Oneida Street to the east City limits.

Capitol Drive from Ballard Road to Zuehlke Drive.

College Avenue from Morrison Street to the east City limits.

College Avenue from Richmond Street to the west City limits.

Commercial Street from Meade Street to Rankin Street.

Conkey Street from Pershing Street to Venture Drive.

Division Street from Washington Street to Franklin Street.

Douglas Street from Spencer Street to Melvin Street.

Eisenhower Drive from Midway Road to Calumet Street (CTH KK).

Endeavor Drive from Lakeland Drive to Eisenhower Drive.

Enterprise Avenue from Gateway Drive to Providence Avenue.

Evergreen Drive from Ballard Road to French Road.

Everett Street from Perkins Street to the west end.

Fourth Street from Lynndale Drive to the east end.

Gateway Drive from Enterprise Avenue to Evergreen Drive.

Glendale Avenue from Ballard Road to Sandra Street.

Goodland Drive from Conkey Street to Zuehlke Drive.

Hancock Street from Lawe Street to Meade Street.

Haskell Street from Outagamie Street to Herbert Street.

Herbert Street from Haskell Street to Rogers Avenue.

Intertech Drive from Enterprise Avenue to cul-de-sac.

John Street from College Avenue to Calumet Street.

Kensington Drive from College Avenue to Newberry Street.

Lakeland Drive from Plank Road to Vantage Drive.

Lawe Street from South Island Street to Summer Street.

Lawrence Street from Memorial Drive to Morrison Street.

Leonard Street from Lynndale Drive to Perkins Street.

Lightning Drive from Evergreen Drive to Enterprise Avenue.

Lilas Drive from College Avenue to the north City limits.

Lilas Drive from Everett Drive to Second Street.

Linwood Avenue from College Avenue to Spencer Street.

Lynndale Drive from College Avenue to the north City limits.

Lynndale Drive from Spencer Street to the south end.

Marshall Road from Winslow Avenue to Capitol Drive.

Meade Street from Hancock Street to Wisconsin Avenue.

Midway Road from the west City limits to the east City limits.

Milis Drive from Quest Drive to Alliance Drive.

Morrison Street from Lawrence Street to Washington Street.

Newberry Street from Walter Avenue to the east City limits.

Northland Avenue from the west City limits to the east City limits.

Olde Oneida Street from South Island Street to Oneida Street.

Oneida Street from College Avenue to the south City limits.

Outagamie Street from Spencer Street to Haskell Street.

Pensar Drive from Roemer Road to the west end.

Perkins Street from College Avenue to the north City limits.

Perkins Street from Second Street south to the railroad tracks.

Pershing Street from Conkey Street to Sandra Street.

Plank Road from Quest Drive to Eisenhower Drive.

Pointer Road from Pensar Drive to Capitol Drive.

Progress Drive from Winslow Avenue to Capitol Drive.

Providence Avenue from Evergreen Drive to Enterprise Avenue.

Quest Drive from Plank Road to Midway Road.

Radio Road from College Avenue (CTH CE) to Warehouse Road.

Rankin Street from Commercial Street to Wisconsin Avenue.

Richmond/Memorial (State Trunk Highway 47) from the north City limits to the south City limits.

Roemer Road from Glendale Avenue to Capitol Drive.

Rogers Avenue from Herbert Street to the west end.

Sandra Street from Glendale Avenue to Pershing Street.

Second Street from Outagamie Street to the west end.

Second Street from Whitman Avenue to Perkins Street.

South Island Street between Olde Oneida Street and Lawe Street.

Spencer Street from Badger Avenue to the west City limits.

Summer Street from Lawe Street to Meade Street.

Vantage Drive from Quest Drive to Lakeland Drive.

Walter Avenue from College Avenue to Newberry Street.

Warehouse Road from Radio Road to Kensington Drive.

Washington Street from Morrison Street to Division Street.

Whitman Avenue from Spencer Street to Second Street.

Winslow Avenue from Roemer Road to Zuehlke Drive.

Wisconsin Avenue from the west City limits to the east City limits.

Woods Edge Drive from College Avenue to the north end.

Zuehlke Drive from Winslow Avenue to Goodland Drive.

(Code 1965, §10.12; Ord 153-89, §1, 11-15-89; Ord 105-90, §1, 11-20-90; Ord 8-93, §1, 2-3-93; Ord 58-94, §1, 5-4-94; Ord 54-98, §1, 5-6-98, Ord 122-01, §1, 7-5-01; Ord 147-02, §1, 7-9-02; Ord 196-03, §1, 11-11-03; Ord 21-04, §1, 2-10-04; Ord 49-06, §1, 3-21-06; Ord 50-06, §1, 3-21-06; Ord 51-06, §1, 3-21-06; Ord 52-06, §1, 3-21-06, Ord 128-06, §1, 10-10-06; Ord 127-06, §1, 10-10-06, Ord 29-07, §1, 2-13-07; Ord 158-10, §1, 10-26-10; Ord 22-11, §1, 1-11-11; Ord 231-11, §1, 12-13-11; Ord 119-12, §1, 10-23-12; Ord 16-14, §1, 4-22-14)

**Cross reference(s)** - Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Secs. 19-138 – 19-160. Reserved.**

## ARTICLE V. BICYCLES AND PLAY VEHICLES*

### DIVISION 1. GENERALLY

**Sec. 19-161. Definitions**.

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

***Bicycle*** means every device propelled by the feet acting upon pedals and having wheels any two (2) of which are not less than fourteen (14) inches in diameter.

***Bicycle establishment or bicycle dealer*** means any business operated by any person wherein new or used bicycles or bicycle parts are purchased, sold, exchanged, bartered, repaired, remodeled, dismantled or junked.

***Bicycle lane*** means that portion of a roadway set aside by the governing body of any city, town, village or county for the exclusive use of bicycles or other modes of travel where permitted under W.S.A. §349.23(2)(a), and so designated by appropriate signs and markings. Bicycle lanes are designated on the following streets: the area bounded by Franklin Street on the north; Lawrence Street on the south, including any ramps leading down into Jones Park; Richmond Street on the west; and Drew Street on the east.

***Bicycle route*** means any bicycle lane, bicycle way or highway which has been duly designated by the Common Council and which is identified by appropriate signs and markings.

***Bicycle way*** means any path or sidewalk or portion thereof designated for the use of bicycles by the Common Council.

***Carrier*** means any device attached to the bicycle designed for carrying articles.

***Curb*** means the lateral boundaries of that portion of a street designed for the use of vehicles, whether marked by a curb or not.

***Driver or operator*** means every person who drives or is in actual physical control of a vehicle.

***Minibike*** means a two- (2-) wheeled motorized vehicle with less than twenty- (20-) inch wheels, usually designed for trails and off-street use.

***Motor bike*** means a vehicle of the bicycle or tricycle type propelled by a motor.

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

***Owner*** means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to security interest in another person, but excludes a lessee under a lease not intended as security.

***Pedestrian*** means any person afoot.

***Reflector*** means any device constructed of metal or glass or plastic that has a diameter of at least two (2) inches of surface area, which will be visible from all distances within fifty (50) feet to five hundred (500) feet directly in front of a motor vehicle at night displaying lawfully lighted headlights, such device to be so constructed as to show a red color when struck by motor vehicle lights as stated. Such device shall be affixed to the rear of the bicycle at any point on the frame or mudguard at a height between axis of the wheel and the bottom of the rider's seat.

***Registration tag*** means a metal plate or sticker indicating that a bicycle is registered.

***Right-of-way*** means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

***Sidewalk*** mans that portion of a street between the curblines or the lateral lines of a roadway and the adjacent property lines, intended for use by pedestrians.

***Street or highway*** means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

***Trailer*** means a unit designed to be towed by a bicycle and not an integral part of a bicycle.

***Vehicle*** means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

(Code 1965, §10.08(1); Ord 120-12, §1, 10-23-12)
**Cross reference(s)** - Definitions and rules of construction generally, §1-2.
***State law reference(s) –** Authority to require registration of bicycles, W.S.A. §349.18(b)(3).

**Sec. 19-162. Penalty for violation of article.**

Any person found guilty of a violation of this article shall be subject to a penalty of not more than five dollars ($5.00) and removal of the bicycle registration tag for a period not to exceed thirty (30) days.
(Code 1965, §10.08(32))

**Sec. 19-163. Compliance with article; responsibility of parents.**

(a) It is unlawful for any person to perform any act forbidden or fail to perform any act required in this article.

(b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any child or ward to violate any of the provisions of this article.
(Code 1965, §10.08(29))

**Sec. 19-164. Operation of skateboards as prohibited in certain areas.**

No person shall operate, ride or propel a skateboard, inline skates and roller skates, on any portion of the following streets or public property:

(1) The area bounded by Franklin Street on the north; Lawrence Street on the south, including any ramps leading down into Jones Park; Richmond Street on the west; and Drew Street on the east.

(2) All City-owned parking ramps and parking lots.
(Code 1965, §10.08(13)(c); Ord 89-92, §1, 8-20-92)
**Cross reference(s)**--Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 19-165. Reserved.**

Editor's note: Ord 75-94, §1, adopted July 9, 1994, repealed §19-165, which pertained to operation of skateboards, inline skates, roller skates and bicycles prohibited on certain pedestrian bridges.

**Secs. 19-166 – 19-175. Reserved**.

## DIVISION 2. BICYCLES

**Secs. 19-176 – 19-180. Reserved.**

**Sec. 19-181. Unclaimed or unidentified bicycles**.

All abandoned bicycles and unidentified bicycles remaining in the hands of the Police Department may, at the end of thirty (30) days, be sold at public auction or by any other method allowed by §12-101.
(Code 1965, §10.08(11))

**Sec. 19-182. Applicability of traffic regulations to persons operating bicycles.**

Every person operating a bicycle upon a roadway shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic ordinances of the City applicable to the driver of a vehicle, except as to special regulations in this article and except as to those provisions of laws and ordinances which by their nature have no application.
(Code 1965, §10.08(12))

**Sec. 19-183. Riding bicycle on sidewalk**.

(a) Bicyclists exercising due care may operate their bicycle upon the sidewalk, except on the sidewalks on College Avenue between Drew Street and Badger Avenue (this exception shall not apply to law enforcement officers operating designed police bicycles).

(b) It shall be unlawful for any person operating a bicycle on the sidewalk to attempt to pass another person going in the same direction on the walk without giving an audible signal as warning and until it becomes evident that the person so warned is aware of the approach of such person operating the bicycle. Pedestrians shall at all times have the right-of-way upon sidewalks and, if necessary, the person operating such bicycle shall vacate the sidewalk or dismount and walk the bicycle to prevent an accident. Any person operating a bicycle upon the sidewalk must have the bicycle under control at all times.
(Code 1965, §10.08(13)(a), (b), ord 150-07, §1, 11-13-07)

**Sec. 19-184. Riding bicycle on roadway.**

Whenever a bicycle is operated upon a roadway the following rules apply:

(1) Unless preparing to make a left turn, every person riding a bicycle upon a roadway carrying two- (2- ) way traffic shall ride within three (3) feet of the right side of the unobstructed traveled roadway. On one- (1-) way roadways, the operator of the bicycle shall ride within three (3) feet of the right side or left side of the unobstructed traveled

roadway. Every person operating a bicycle upon a roadway shall exercise due care when passing a standing vehicle or one (1) proceeding in the same direction, allowing a minimum of three (3) feet between his bicycle and the vehicle.

(2) Persons riding bicycles upon a roadway shall ride single file on all roadways which have centerlines or lane lines indicated by painting or other markings, and in all unincorporated areas. On roadways not divided by painted or other marked centerlines or lane lines, bicycle operators may ride two (2) abreast in incorporated areas.

(3) No person may operate a bicycle upon a roadway where a sign is erected indicating that bicycle riding is prohibited.

(4) The operator of any bicycle overtaking another bicycle or vehicle proceeding in the same direction shall pass such vehicle at a safe distance at a place on the roadway other than an intersection and without leaving the traveled portion of the road.

(Code 1965, §10.08(14))

**Sec. 19-185. Riding bicycle on bicycle lane.**

(a) Unless two- (2-) way traffic is authorized under subsection (b) of this section, every person operating a bicycle upon a bicycle lane shall ride in the same direction in which vehicular traffic on the lane of the roadway nearest the bicycle lane is traveling.

(b) The Common Council may authorize two- (2-) way traffic on any portion of a roadway which it has set aside as a bicycle lane. Appropriate traffic signs shall be installed on all bicycle lanes open to two- (2-) way traffic.

(c) Unless otherwise provided under subsection (b) of this section, a person operating a bicycle may enter or leave a bicycle lane only at intersections or at driveways adjoining the bicycle lane.

(d) A person may leave a bicycle lane at any point by dismounting from the bicycle and walking it out of the lane. A person may enter a bicycle lane at any point by walking his bicycle into the lane and then mounting it.

(e) Every person operating a bicycle upon a bicycle lane shall exercise due care and give an audible signal when passing a bicycle rider proceeding in the same direction.

(f) Every operator of a bicycle entering a bicycle lane shall yield the right-of-way to all bicycles in the bicycle lane. Upon leaving a bicycle lane, the operator of a bicycle shall yield the right-of-way to all vehicles and pedestrians.

(Code 1965, §10.08(15))

**Sec. 19-186. Riding bicycle on bicycle way.**

(a) Every person operating a bicycle upon a bicycle way shall:

(1) Exercise due care and give an audible signal when passing a bicycle rider or a pedestrian proceeding in the same direction.

(2) Obey each traffic signal or sign facing a roadway which runs parallel and adjacent to a bicycle way.

(b) Every person operating a bicycle upon a bicycle way open to one- (1-) way traffic shall ride on the right side of the bicycle way.

(c) Every operator of a bicycle entering a bicycle way shall yield the right-of-way to all bicycles and pedestrians in the bicycle way.

(Code 1965, §10.08(16))

**Sec. 19-187. Carrying passengers.**

(a) A person propelling a bicycle shall not ride other than upon or astride a permanent and a regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(c) No bicycle except a tandem shall be used to carry any person except the operator unless equipped with a child's seat, in which case the following conditions and regulations must be met:

(1) The operator shall be fourteen (14) years of age or older.

(2) The passenger shall not exceed fifty (50) pounds in weight and shall be seated on the child's seat.

(3) The child’s seat shall be fastened securely to the bicycle; shall be located behind the operator's seat; and shall be designed and manufactured for this specific purpose and be

equipped with safety belt, arm rest, back rest, foot and spoke protection, and have a firm seat and back and be attached to the frame at three (3) points with bolts or nuts, two (2) of which are at either side of the wheel axle or the frame adjacent to the rear axle.

(4) Only one (1) child's seat shall be attached to a bicycle.

(Code 1965, §10.08(17))

**Sec. 19-188. Improper riding, trick riding and racing.**

(a) No person operating a bicycle upon a public street or sidewalk shall participate in any race, speed or endurance contest unless such race or endurance contest has the written permission of the Chief of Police and is conducted under the supervision of the police.

(b) No person riding or operating a bicycle shall perform or attempt to perform any acrobatic, fancy, or stunt riding upon any public street or sidewalk.

(Code 1965, §10.08(18))

**Sec. 19-189. Obedience to speed limits.**

No person shall operate a bicycle at a speed greater than the speed limit.

(Code 1965, §10.08(19))

**Sec. 19-190. Obedience to traffic-control devices**.

Any person operating a bicycle shall obey the instructions of official traffic-control devices applicable to vehicles, unless otherwise directed by a police officer.

(Code 1965, §10.08(20))

**Sec. 19-191. Stopping, turning and signaling.**

(a) If any other traffic may be affected by such movement, no bicycle operator shall stop, slow down or turn without giving an arm signal required by state law for the operation of motor vehicles. The operator of a bicycle shall give such signal continuously during not less than the last fifty (50) feet traveled before turning.

(b) No person may stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided in W.S.A. §346.35 to the operator of any vehicle immediately to the rear when there is opportunity to give such signal. This subsection does not apply to the operator of a bicycle approaching an official stop sign or traffic-control sign.

(c) Whenever authorized signs are erected indicating that no right or left turn or U-turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

(d) Every person riding or operating a bicycle intending to turn to the right at an intersection or alley or driveway shall approach the turning point in the line of traffic nearest the right-hand curb of the street. The bicycle driver, in turning left at an intersection, shall pass to the left of the center of the intersection before turning, unless otherwise directed by markers, buttons or signs. At intersections where traffic is moving in opposite directions, if it is not safe for bicycles to make left-hand turns as described in this subsection, the bicycle driver shall stay in the right-hand lane and ride to the opposite corner, then dismount and walk the bicycle to the left-hand corner and proceed. Crosswalks shall be used when walking a bicycle through an intersection.

(Code 1965, §10.08(21))

**Sec. 19-192. Emerging from alley or driveway**.

The operator of a bicycle emerging from an alley, driveway or building shall stop prior to riding across a sidewalk or roadway. Such operator shall in all cases yield the right-of-way to all pedestrians approaching on the sidewalk and to all vehicles approaching upon the roadway.

(Code 1965, §10.08(22))

**Sec. 19-193. Parking.**

(a) No person shall park any bicycle on a sidewalk having a width of less than five and one-half (5½) feet.

(b) On sidewalks with a width of five and one-half (5½) feet or more, bicycles shall not be parked:

(1) On the main traveled portion of the sidewalk;

(2) Against or adjacent to windows; or

(3) In such a manner as to constitute a hazard to pedestrians, traffic or property.

(c) Bicycle racks are to be used for parking where provided. Bicycles are not to be parked on the sidewalk if a bicycle rack is available within three hundred (300) feet and able to be reached without crossing the street.

(Code 1965, §10.08(23))

**Sec. 19-194. Clinging to vehicles.**

No person operating a bicycle shall attach himself or his bicycle to any vehicle upon a roadway.
(Code 1965, §10.08(24)(a))

**Sec. 19-195. Position of passengers; towing.**

No person shall operate a bicycle or bicycle-trailer combination on a street or sidewalk when any person other than the operator is upon any portion thereof not designed or intended for the use of passengers, nor shall any person ride in such a position as to interfere with the operator's view ahead or to the side or to interfere with the operator's control of the bicycle, nor shall the operator of any bicycle draw any coaster, sled, person on roller skates, toy vehicle or any other similar vehicle on a public highway, except those trailers specifically designed for bicycles and having the following safeguards:

(1) The bicycle trailer to be towed must be firmly attached to the framework of the bicycle and be balanced to preclude detrimental effect on the operation of the bicycle.

(2) At least two (2) red reflectors must be fastened on the rear of the trailer and one (1) amber reflector on each side of the trailer. These reflectors are to be two (2) inches in diameter, or the equivalent in retro reflective material.

(3) Overall length of trailer unit from the extreme rear of the bicycle wheel is not to exceed forty (40) inches.

(4) Overall height of the trailer unit, including wheels, from ground level to the top of the carrying container, is not to exceed thirty-six (36) inches.

(5) Maximum width of the trailer unit, wheels, axle, container and the like is not to exceed thirty-six (36) inches.

(6) The trailer unit must be detachable from the bicycle.

(Code 1965, §10.08(24)(b))

**Sec. 19-196. Carrying articles**.

No person operating a bicycle shall carry any package, bundle or article which prevents the operator from keeping at least one (1) hand upon the handlebars.
(Code 1965, §10.08(25))

**Sec. 19-197. Handlebars.**

Every bicycle that is equipped with handle grips must have the grips securely glued or cemented to the handlebars.
(Code 1965, §10.08(26))

**Sec. 19-198. Lamps and other equipment.**

(a) Lamps; reflectors. No person may operate a bicycle upon a street, sidewalk, bicycle lane or bicycle way during hours of darkness unless such bicycle is equipped with or the operator is wearing a lamp on the front emitting a white light visible from a distance of at least five hundred (500) feet to the front of such bicycle. Such bicycle shall also be equipped with a red reflector that has a diameter of at least two (2) inches of surface area on the rear, so mounted and maintained as to be visible from all distances from fifty (50) to five hundred (500) feet to the rear when directly in front of a lawful upper beam of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to but not in lieu of the red reflector.

(b) Brakes. No person may operate a bicycle upon a street, sidewalk, bicycle lane or bicycle way unless all braking equipment with which the bicycle was originally provided is in good working order. No person may operate a bicycle equipped with a coaster brake upon a highway, bicycle lane or bicycle way unless such brakes will enable the operator to make the braked rear wheel skid on dry, level, clean pavement.
(Code 1965, §10.08(27))

**Sec. 19-199. Reserved.**

Editor's Note: Ord 151-07, effective November 13, 2007, repealed this entire section relating to rental agencies.
(Code 1965, §10.08(28), Ord 151-07, §1, 11-13-07)

**Sec. 19-200. Riding bicycle without consent of owner.**

No person shall intentionally take or ride a bicycle without the consent of the owner.
(Code 1965, §10.08(2)(d))

**Sec. 19-201. Reserved.**

Editor's Note: Ord 152-07, effective November 13, 2007, repealed this entire section relating to driving motor vehicle on bicycle lane or bicycle way.
(Code 1965, §10.08(30), Ord 152-07, §1, 11-13-07)

**Sec. 19-202. Reserved.**

Editor's Note: Ord 153-07, effective November 13, 2007, repealed this entire section relating to overtaking and passing of bicycles by motor vehicles.
(Code 1965, §10.08(31), Ord 153-07, §1, 11-13-07)

*(The next page is 1305.)*

# Chapter 20

# Utilities


**ARTICLE I. IN GENERAL**

Utilities Committee ..... 20-1
Connection to public sewers and water main required; use of privies ..... 20-2
Sewer and water connection fee for properties not previously assessed ..... 20-3
Reserved ..... 20-4 – 20-30

**ARTICLE II. WATER UTILITY**

Penalty for violation of article ..... 20-31
Service limits ..... 20-32
Meters and access to premises ..... 20-33
Authority to discontinue service ..... 20-34
Adoption of state public safety requirements ..... 20-35
Fluoridation of water ..... 20-36
Tampering with equipment ..... 20-37
Unauthorized connection ..... 20-38
Leakage in water pies ..... 20-39
Use of sprinklers ..... 20-40
Cross connections ..... 20-41
- Definitions ..... 20-41(a)
- Cross connections prohibited ..... 20-41(b)
- Inspections ..... 20-41(c)
- Right of entry ..... 20-41(d)
- Authority to discontinue service ..... 20-41(e)
- Emergency discontinuance of service ..... 20-41(f)

Private water wells ..... 20-42
- Definitions ..... 20-42(a)
- Purpose ..... 20-42(b)
- Applicability ..... 20-42(c)
- Abandonment requirement ..... 20-42(d)
- Well operation permit ..... 20-42(e)
- Abandonment procedures ..... 20-42(f)
- Extension requests ..... 20-42(g)

Reserved ..... 20-43 – 20-65

**ARTICLE III. SEWERS AND WASTEWATER DISPOSAL**

DIVISION 1. GENERAL PROVISIONS
- Purpose and policy ..... 20-66
- Administration ..... 20-67
- Abbreviations ..... 20-68
- Definitions ..... 20-69
- Significant industrial use designation ..... 20-70
- State and federal regulations ..... 20-71
- Fees ..... 20-72
- Reserved ..... 20-73 – 20-80

DIVISION 2. GENERAL SEWER USE REQUIREMENTS
- Prohibited discharge standards ..... 20-81
  - General prohibitions ..... 20-81(a)
  - Specific prohibitions ..... 20-81(b)
  - Inspections and right of entry ..... 20-81(c)
- Categorical pretreatment standards ..... 20-82
  - Local limits ..... 20-83

City's right of revision ..... 20-84
Dilution ..... 20-85
Bypass ..... 20-86
Amalgam management at dental offices ..... 20-87
Reserved ..... 20-88 – 20-90
DIVISION 3. PRETREATMENT OF WASTEWATER
Pretreatment facilities ..... 20-91
Additional pretreatment measures ..... 20-92
Accidental discharge/slug control plans ..... 20-93
Hauled wastewater ..... 20-94
Reserved ..... 20-95 – 20-100
DIVISION 4. WASTEWATER DISCHARGE PERMIT
Wastewater discharge information requests ..... 20-101
Wastewater discharge permit requirement ..... 20-102
Wastewater discharging permitting – existing conditions ..... 20-103
Same – new connections ..... 20-104
Wastewater discharge permit application contents ..... 20-105
Application signatories and certification ..... 20-106
Wastewater discharge permit decisions ..... 20-107
Reserved ..... 20-108 – 20-115
DIVISION 5. WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS
Wastewater discharge permit duration ..... 20-116
Wastewater discharge permit contents ..... 20-117
Wastewater discharge permit appeals ..... 20-118
Wastewater discharge permit modification ..... 20-119
Wastewater discharge permit transfer ..... 20-120
Wastewater discharge permit revocation ..... 20-121
Wastewater discharge permit reissuance ..... 20-122
Regulation of waste received from other jurisdictions ..... 20-123
Reserved ..... 20-124 – 20-140
DIVISION 6. REPORTING REQUIREMENTS
Baseline monitoring reports ..... 20-141
Compliance schedule progress reports ..... 20-142
Reports on compliance with categorical pretreatment standard deadline ..... 20-143
Periodic compliance reports ..... 20-144
Reports of changed conditions ..... 20-145
Reports of potential problems ..... 20-146
Reports from unpermitted users ..... 20-147
Notice of violation/repeat sampling and reporting ..... 20-148
Notification of the discharge of hazardous waste ..... 20-149
Analytical requirements ..... 20-150
Sample collection ..... 20-151
Timing ..... 20-152
Record keeping ..... 20-153
Reserved ..... 20-154 – 20-160
DIVISION 7. COMPLIANCE MONITORING
Right of entry; inspection and sampling ..... 20-161
Search warrants ..... 20-162
Reserved ..... 20-163 – 20-165
DIVISION 8. CONFIDENTIAL INFORMATION
Generally ..... 20-166
Reserved ..... 20-167 – 20-170
DIVISION 9. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE
Generally ..... 20-171
Reserved ..... 20-172 – 20-175

DIVISION 10. ADMINISTRATIVE ENFORCEMENT REMEDIES
Notice of noncompliance ..... 20-176
Notification of violation ..... 20-177
Consent orders ..... 20-178
Show cause hearing ..... 20-179
Compliance orders ..... 20-180
Cease and desist orders ..... 20-181
Administrative penalties ..... 20-182
Emergency suspensions ..... 20-183
Termination of discharge ..... 20-184
Reserved ..... 20-185
DIVISION 11. JUDICIAL ENFORCEMENT REMEDIES
Injunctive relief ..... 20-186
Civil penalties ..... 20-187
Criminal prosecution ..... 20-188
Remedies nonexclusive ..... 20-189
Reserved ..... 20-190 – 20-200

**ARTICLE IV. RATES AND CHARGES**
Definitions ..... 20-201
Imposed ..... 20-202
Basis ..... 20-203
Rates ..... 20-204
Exceptions and modifications of charges ..... 20-205
Collections ..... 20-206
Liens for delinquent charges ..... 20-207
Sewage utility charges fund ..... 20-208
Industrial monitoring charges ..... 20-209
Purpose ..... 20-209(a)
Authorized; amount ..... 20-209(b)
Permit fee ..... 20-209(b)(1)
Sampling charge ..... 20-209(b)(2)
Laboratory analysis charge ..... 20-209(b)(3)
Collection ..... 20-209(c)
Lien for delinquent charges ..... 20-209(d)

**ARTICLE V. STORMWATER MANAGEMENT SERVICES**
DIVISION 1. GENERAL PROVISIONS
Findings and necessity ..... 20-226
Establishment ..... 20-227
Authority ..... 20-228
Definitions ..... 20-229
Connection ..... 20-230
Reserved ..... 20-231 – 20-235
DIVISION 2. RATES AND CHARGES
Rate charges ..... 20-236
Customer classification ..... 20-237
New construction ..... 20-238
Method of appeal ..... 20-239
Special assessment authority ..... 20-240
Budget excess revenues ..... 20-241
Severability ..... 20-242

**ARTICLE VI. STORMWATER MANAGEMENT STANDARDS AND PLANNING**

DIVISION 1. IN GENERAL
Authority ..... 20-300
Findings of fact ..... 20-301
Purpose and intent ..... 20-302
Purpose ..... 20-302(a)
Intent ..... 20-302(b)
Implementation ..... 20-302(c)
Title ..... 20-303
Definitions ..... 20-304
Reserved ..... 20-305 – 20-310
DIVISION 2. STORMWATER MANAGEMENT
Applicability and jurisdiction ..... 20-311
Applicability ..... 20-311(a)
Jurisdiction ..... 20-311(b)
County and town ordinances ..... 20-311(c)
State agency ..... 20-311(d)
Waivers ..... 20-311(e)
Applicability of maximum extent practicable ..... 20-311(f)
Performance standards ..... 20-312
Maintenance of effort ..... 20-312(a)
Off-site drainage ..... 20-312(b)
Peak discharge ..... 20-312(c)
Stormwater discharge quality ..... 20-312(d)
Infiltration ..... 20-312(e)
Protective areas ..... 20-312(f)
Fueling and vehicle maintenance areas ..... 20-312(g)
General considerations for stormwater management measures ..... 20-312(h)
Location and regional treatment option ..... 20-312(i)
Additional requirements ..... 20-312(j)
Swale treatment for transportation facilities ..... 20-312(k)
Stormwater management plans ..... 20-313
Plan requirements ..... 20-313(a)
Minimum content ..... 20-313(b)
Alternate requirements ..... 20-313(c)
Modifications ..... 20-313(d)
Maintenance agreement ..... 20-314
Maintenance agreement required ..... 20-314(a)
Agreement provisions ..... 20-314(b)
Modification of agreement ..... 20-314(c)
Termination of agreement ..... 20-314(d)
Reserved ..... 20-315 – 20-320
DIVISION 3. PERMITTING AND FEES
Permitting requirements, procedures and fees ..... 20-321
Permit required ..... 20-321(a)
Permit application and fee ..... 20-321(b)
Review and approval of permit application ..... 20-321(c)
Stormwater practice installation and maintenance performance security ..... 20-321(d)
Permit conditions ..... 20-321(e)
Permit duration ..... 20-321(f)
Fee in lieu of on-site stormwater management practices ..... 20-321(g)
Reserved ..... 20-322 – 20-325
DIVISION 4. ENFORCEMENT AND APPEALS
Enforcement and penalties ..... 20-326
Appeals ..... 20-327
Appeals ..... 20-327(a)
Who may appeal ..... 20-327(b)

Reserved.....20-328 – 20-330
DIVISION 5. SEVERABILITY
Severability .....20-331
DIVISION 6. EFFECTIVE DATE
Effective date .....20-332

**ARTICLE VII. ILLICIT DISCHARGES AND CONNECTIONS**
DIVISION 1. IN GENERAL
Purpose and intent.....20-400
Definitions.....20-401
Applicability.....20-402
Responsibility for administration .....20-403
Compatibility with other regulations.....20-404
Severability .....20-405
Ultimate responsibility .....20-406
Reserved.....20-407 – 20-410
DIVISION 2. DISCHARGE PROHIBITIONS
Prohibition of illicit discharges .....20-411
Allowed discharges .....20-412
Prohibition of illicit connections .....20-413
Watercourse protection .....20-414
Reserved.....20-415 – 20-420
DIVISION 3. COMPLIANCE MONITORING
Right of entry: inspecting and sampling.....20-421
Special inspection warrant .....20-422
Requirement to prevent, control and reduce stormwater pollutions by the use of best management practices .....20-423
Notification of spills.....20-424
Reserved.....20-425 – 20-430
DIVISION 4. VIOLATIONS, ENFORCEMENT AND PENALTIES
Violations.....20-431
Warning notice.....20-432
Notice of violation .....20-433
Suspension of MS4 access .....20-434
Suspension due to illicit discharges in emergency situations .....20-435
Suspension due to detention of illicit discharge .....20-436
Prosecution and penalties.....20-437
Enforcement measures .....20-438
Cost of abatement of the violation.....20-439
Violations deemed a public nuisance .....20-440
Remedies not exclusive.....20-441
Obligations of authorized enforcement agency and City of Appleton.....20-442

## ARTICLE I. IN GENERAL

### Sec. 20-1. Utilities Committee.

The Utilities Committee shall consist of five (5) alderpersons. The alderpersons shall be appointed by the Mayor with the approval of the Common Council. A majority of the members of the Committee shall constitute a quorum. The Committee shall report directly to the Common Council and shall have jurisdiction over the operational policies for the stormwater, water and sewer utilities, subject to the rules and regulations of the Wisconsin Public Service Commission or other regulatory agencies as they may apply.
(Code 1965, §1.04(3); Ord 169-89, §1, 12-20-89; Ord 60-90, §1, 6-25-90; Ord 68-90, §1, 8-22-90; Ord 30-95, §1, 3-1-95; Ord 67-95, §1, 5-17-95; Ord 6-97, §1, 4-16-97)

### Sec. 20-2. Connection to public sewers and water main required; use of privies.

(a) Connection to public water and sewer services shall be required as provided in §4-270.

(b) [*Reserved*]

(c) [*Reserved*]
(Code 1965, §7.04(5), (6); Ord 31-95, §1, 3-1-95)
**Cross reference(s)** – Plumbing standards 4-26 et seq.

### Sec. 20-3. Sewer and water connection fee for properties not previously assessed.

No plumbing permit shall be issued authorizing a connection with the City water and sewer systems if the land to be benefited by such connection had not been specifically assessed for the water or sewer main extension in the street abutting the property for the reason that the property to be so benefited was not in the corporate limits of the City at the time the assessment was levied for the water or sewer main extensions, unless the owner thereof pays a connection fee to the City in the amount equal to the amount which the property would have been assessed on the basis of the prevailing cost for the water main and sewer main at the time connection is made computed in accordance with the special assessment policy in effect.
(Code 1965, §2.10)

### Secs. 20-4 – 20-30. Reserved.

## ARTICLE II. WATER UTILITY

### Sec. 20-31. Penalty for violation of article.

Any person who shall violate any provision of this article shall be subject to a penalty as provided in §1-16.
(Code 1965, §12.11)

### Sec. 20-32. Service limits.

(a) The limits of utility service for other than the providing of wholesale water in unincorporated areas outside the corporate limits of the City are as on file in the City Clerk's office.

(b) This section delineates the area within which retail service will be provided, and the City Water Utility shall have no obligation to serve beyond the area so delineated.
(Code 1965, §12.12)

### Sec. 20-33. Meters and access to premises.

(a) Authorized employees of the Water Utility shall have free access to any premises supplied with water, at proper times, to inspect and ascertain the condition of the meters and fixtures, or for reading meters, and no owner or occupant shall refuse such employees such access. The Water Utility shall have the right to enter any premises to remove the meter for the purpose of examination and test after first notifying the owner or occupant, and may shut off the water from the premises where free access is prevented.

(b) Remote reading devices may be installed on all structures supplied with water by the Water Utility. The remote reading device shall be located on the outside of the structure in such a way that it can serviced and read from a paved walkway accessible year-round and kept free of ice and snow. The remote reading device may not be obstructed by shrubs or obstacles and shall be at a readable height. Original installation shall be at the cost of the Water Utility, but any cost of defacing, vandalism or any other damage shall be charged to the owner or occupant. Water service may be discontinued for failure to comply with the requirements of this subsection.

(c) The owner of any structure supplied with water shall provide a location of adequate size for installation of a water meter. Such location shall be adequately ventilated and shall not be a manhole, pit, vault, or other confined space as defined by the Wisconsin Department of Industry, Labor and Human Relations (DILHR), or the U.S. Department of Labor Occupational Safety and Health Administration (OSHA). The owner of any meter pit or vault considered a confined space (by definition) shall be required to conform with this section at such time as any piping of structural modifications or repairs are made to the structure, within ninety (90) days of a determination that the structure is a level 2 confined space as defined by DILHR or OSHA or by January 1, 1997, whichever is sooner. Any additional costs incurred with reading or servicing a water meter is a confined space, including but not limited to, dewatering and confined space entry procedures, shall be billed to the customer.
(Code 1965, §12.08; Ord 133-91, §1, 11-20-91)
**Cross reference(s)** – Supervision of sewer and water services, §4-267; specifications for Water Utility use in mobile home parks, §11-75; hydrant requirements in mobile home parks §11-76.

### Sec. 20-34. Authority to discontinue service.

The Water Utility shall discontinue water service on any premises where the water charge remains unpaid thirty (30) days after a statement is rendered. Where such service is discontinued, a connection charge shall be paid before service is rendered.
(Code 1965, §12.06)

### Sec. 20-35. Adoption of state public safety requirements.

The provisions of Wisconsin Administrative Code, PSC 185.37(4), regarding public safety involving water, are hereby adopted by reference.

### Sec. 20-36. Fluoridation of water.

The Appleton Water Treatment Facility shall introduce into water being distributed in the water supply system of the City, and include the cost in the determination of water rates. The levels of fluoride in the water supply shall be set to correspond to the lower end of the recommended range as promulgated by the United States Department of Health and Human Services, and approved by the Wisconsin Department of Natural Resources.
(Code 1965, §12.09; Ord 67-95, §1, 5-17-95 ; Ord 198-11, §1, 9-13-11)

### Sec. 20-37. Tampering with equipment.

No person, without the written authority of the Water Utility manager, shall operate any valve connected with the street or supply main, or break or tamper with any seal of the water meter in service, or open any fire hydrant connected with the distribution system, whether the hydrant is the property of the City or has been placed by an owner for his own protection, except for purposes of extinguishing fire only, or wantonly injure or impair such equipment.
(Code 1965, §12.04)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17, schedule of deposits for citation, §1-18.

**Sec. 20-38. Unauthorized connection.**

(a) No person not authorized in writing by the Water Utility Manager shall tap or make any connection with any water main or distribution plan belonging to or part of the municipal water utility plant of the city.

(b) The water shall be shut off from such unauthorized tap or connection until inspection thereof has been made and any forfeiture imposed for such offense paid. Such person shall be liable for all water estimated by the Water Utility Manager to have been consumed or to have passed through such connection from the date when the connection was made up to the time such connection or tap was discovered. Charges shall be assessed against the property where the unauthorized tap was made and assessed as a special tax.
(Code 1965, §12.05)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 20-39. Leakage in water pipes.**

Where a leak develops in the water pipe between the curb box and the meter, the Water Utility shall serve a written demand upon the property owner to repair the pipe within twenty-four (24) hours, and in the event of failure so to do the water service to the property shall be discontinued.
(Code 1965, §12.07)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 20-40. Use of sprinklers.**

No owner or occupant of any lot or premises served by the Water Utility shall suffer, permit or allow the sprinkling of a lawn, garden or premises with water from the Water Utility servicing such lot or premises except between 5:00 p.m. and 8:00 p.m. on even-numbered days on lots and premises having even-numbered house and building numbers, and no owner or occupant shall suffer, permit or allow sprinkling of a lawn, garden or premises except between 5:00 p.m. and 8:00 p.m. on odd-numbered days on lots and premises having odd-numbered house and building numbers. The provisions of this section shall be in effect only upon proclamation of the Mayor.
(Code 1965, §12.10)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 20-41. Cross connections.**

(a) ***Definition.*** A cross connection shall be defined as any physical connection or arrangement between two (2) otherwise separate systems, one (1) of which contains potable water from the City Water Utility, and the other containing water from a private source, water of unknown or questionable safety, or steam, gases or chemicals, whereby there may be a flow from one system to the other, the direction of flow depending on the pressure differential between the two (2) systems.

(b) ***Cross connections prohibited.*** No person shall establish or permit to be established or maintain or permit to be maintained any cross connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the regular public water supply of the City may enter the supply or distribution system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the City Water Utility and by the State Department of Natural Resources in accordance with Wisconsin Administrative Code, §NR 111.25(3).

(c) ***Inspections.*** In accordance with the Cross Connection Prevention Policy and its inspection requirements for different types of properties, it shall be the duty of the City Water Utility to inspect, to cause inspections to be made or require the submission of inspections reports from all properties serviced by the public water system where cross connection with the public water system is deemed possible. The frequency of inspections and reinspection, based on potential health hazards involved, shall be as established by the City Water Utility and as approved by the State Department of Natural Resources. Upon inspection, if a potential cross connection involving a health hazard exists, the City Water Utility's inspector or authorized representative may order that an approved cross connection control device be installed for containment from the public water system.

(d) ***Right of entry.*** Upon presentation of credentials, the representative of the Water Utility shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the City for cross connections. If entry is refused, such representative shall obtain a special inspection warrant under W.S.A. §66.0119. On request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system on such property.

(e) ***Authority to discontinue service.*** The Water Utility is hereby authorized and directed to discontinue water service to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice and opportunity for hearing under W.S.A. Chapter 68, except as provided in subsection (f) of this section. Water service to such property shall not be restored until the cross

connection has been eliminated in compliance with the provisions of this section.

(f) ***Emergency discontinuance of service.*** If it is determined by the Water Utility that a cross connection or an emergency endangers public health, safety or welfare and required immediate action, and a written finding to that effect is filed with the City Clerk and delivered to the customer's premises, service may be immediately discontinued. The customer shall have an opportunity for hearing under W.S.A. Chapter 68, within ten (10) days of such emergency discontinuance.
(Code 1965, §12.13, Ord 189-04, §1, 1-1-05; Ord 136-05, §1, 11-22-05)

**Sec. 20-42. Private water wells.**

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

***Municipal water utility*** means a system for the provision to the public of piped water for human consumption when such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) year-round residents and is owned or operated by a city, village, county, town, town sanitary district, utility district or public institution as defined in W.S.A. §49.10(12)(f)(1), or a privately owned Water Utility serving any of the above.

***Noncomplying*** means a well or pump installation which does not comply with the provisions of Wisconsin Administrative Code, Chapter NR 812, in effect at the time the well was constructed, a contamination source was installed, the pump was installed or work was done on either the well or pump installation.

***Pump installation*** means the pump and related equipment used for withdrawing water from a well including the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.

***Unsafe*** means a well or pump installation which produces water which is bacteriologically contaminated or contaminated with substances in excess of the standards of Wisconsin Administrative Code, chapters NR 109 or 140, or for which a health advisory has been issued by the State Department of Natural Resources.

***Unused*** means a well or pump installation which is not in use or does not have a functional pumping system.

***Well*** means an excavation or opening in the ground made by digging, boring, drilling, driving or other methods for the purpose of obtaining groundwater for consumption or other use.

***Well abandonment*** means the filling and sealing of a well according to the provisions of Wisconsin Administrative Code, chapter NR 810.

(b) ***Purpose.*** The purpose of this section is to prevent contamination of groundwater and to protect public health, safety and welfare by assuring that unused, unsafe or noncomplying wells which may serve as conduits for contamination or wells which may be illegally cross connected to the municipal water utility are properly abandoned.

(c) ***Applicability.*** This section applies to all wells located on premises served by the municipal water utility.

(d) ***Abandonment required.*** All wells located on premises connected to the municipal water utility shall be abandoned in accordance with the terms of this section and Wisconsin Administrative Code, chapter NR 812, or no later than one (1) month from the date of connection to the municipal water utility, whichever occurs last, unless a well operation permit has been obtained by the well owner from the City plumbing inspector.

(e) ***Well operation permit.*** The plumbing inspector may grant a permit to a private well owner to operate a well for a period not to exceed five (5) years providing the conditions of this section are met. An owner may require renewal of a well operation permit by submitting information verifying that the conditions of this section are met. The plumbing inspector may conduct inspections or have water quality tests conducted at the applicant's expense to obtain or verify information necessary for consideration of a permit application or renewal. Permit applications and renewals shall be made on forms provided by the plumbing inspector. The following conditions must be met for issuance or renewal of a well operation permit:

(1) The well and pump installation must meet or must be upgraded to meet the requirements of Wisconsin Administrative Code, chapter NR 812;

(2) The well construction and pump installation must have a history of producing bacteriologically and contaminant safe water as evidenced annually by at least two (2) samplings taken a minimum of two (2) weeks apart for bacteria testing; with one (1) of these samples also requiring arsenic testing. Results must meet Department of Natural Resources requirements for maximum contaminant levels for these parameters. No exception to this condition may be made for

unsafe wells, unless the State Department of Natural Resources approved, in writing, the continued use of the well;

(3) For residences, there must be no cross connections between the well and pump installation and the municipal water utility. A reduced pressure backflow preventer between the two (2) systems is acceptable for industrial use if the industry has the reduced pressure backflow preventer checked by a plumber certified for such tests, on a yearly basis;

(4) The proposed use of the well and pump installation must be justified as being necessary in addition to water provided by the municipal water utility;

(5) If well water is discharged to the sanitary sewer, a meter must be installed on the line to measure flow.

(f) ***Abandonment procedures.***

(1) All wells abandoned under the jurisdiction of this section or rule shall be abandoned according to the procedures and methods of Wisconsin Administrative Code, Chapter NR 812. All debris, pump, piping, unsealed liners and any other obstructions which may interfere with sealing operations shall be removed prior to abandonment.

(2) The owner of the well, or the owner's agent, shall notify the City plumbing inspector at least forty-eight (48) hours prior to commencement of any well abandonment activities. The abandonment of the well shall be observed by the City plumbing inspector, in accordance with §4-272(c).

(3) An abandonment report form, supplied by the State Department of Natural Resources, shall be submitted by the well owner to the City plumbing inspector (who will forward a copy to the City Clerk) and the State Department of Natural Resources within ten (10) days of the completion of the well abandonment.

(g) ***Extension requests.*** The Utilities Committee may extend the time for well permitting or may grant temporary relief where strict enforcement of this section would work an unnecessary hardship without corresponding public or private benefit.

(Ord 9-91, §1, (12.14), 2-6-91; Ord 35-96, §1, 4-17-96, Ord 36-96, §1, 4-17-96, Ord 190-04, §1, 1-1-05)

**Charter reference(s)** – Sealing of abandoned wells § 4-271(c).

**Secs. 20-43 – 20-65. Reserved.**

## ARTICLE III. SEWERS AND WASTEWATER DISPOSAL

### DIVISION 1. GENERAL PROVISIONS

**Sec. 20-66. Purpose and policy.**

This article sets forth uniform requirements for users of the publicly owned treatment works for the City of Appleton and enables the City to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code §1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this article are:

(1) To prevent this introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

(2) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;

(3) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(4) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(5) To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the publicly owned treatment works; and

(6) To enable the City to comply with its Wisconsin Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

This article shall apply to all users of the publicly owned treatment works. This article authorizes the issuance of wastewater discharge permits; provided for monitoring, compliance and enforcement activities; establishes administrative review procedures; required user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-67. Administration.**

Except as otherwise provided herein, the Director of Utilities shall administer, implement and enforce the provisions of this article. Any powers granted to or duties imposed upon the Director of Utilities may be delegated by the Director of Utilities to other City personnel.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-68. Abbreviations.**

The following abbreviations, when used in this article, shall have the designated meanings:

- BOD – Biochemical Oxygen Demand
- CFR – Code for Federal Regulations
- COD – Chemical Oxygen Demand
- EPPA – U.S. Environmental Protection Agency
- gpd – gallons per day
- mg/l – milligrams per liter
- ug/l – micrograms per liter
- WPDES – Wisconsin Pollutant Discharge Elimination System
- POTW – Publicly Owned Treatment Works
- RCRA – Resource Conservation and Recovery Act
- SIC – Standard Industrial Classification
- TSS – Total Suspended Solids
- U.S.C. – United States Code

(Ord 60-94, §1, 5-4-94)

**Sec. 20-69. Definitions.**

Unless a provision explicitly states otherwise the following terms and phrases, as used in this article, shall have the meanings hereinafter designated.

***Act or "the Act".*** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251 et seq.

***Approval authority.*** The secretary of the Wisconsin Department of Natural Resources.

***Authorized representative of the user.***

(1) If the user is a corporation:

a. The president, secretary, treasurer or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

b. The manager of one (1) or more manufacturing, production or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars ($25,000,000) (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively.

(3) If the user is a federal, state or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs (1) through (3) above, may designate another authorized representative if the authorization is in writing, the authorization specified the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

***Bypass***. The intentional diversion of waste streams from any portion of an industrial user's treatment facility.

***Biochemical oxygen demand or BOD***. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures or five (5) days at twenty (20) degrees centigrade, usually expressed as a concentration (e.g. mg/l).

***Categorical pretreatment standard or categorical standard.*** Any regulation containing pollutant discharge limit promulgated by EPA in accordance with §§307(b) and (c) of the Act (33 U.S.C. §1317) which apply to a specified category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471 or promulgated under §147.07 Wis. Stats., by the Wisconsin Department of Natural Resources and set forth in Wis. Admin. Code NR 221 to 297.

***City.*** The City of Appleton or the Common Council of the City of Appleton.

***Director of Utilities.*** The person designated by the City to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this article, or a duly authorized representative.

***Environmental Protection Agency or EPA.*** The U.S. Environmental Protection agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

***Existing source.*** Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such sources if the standard is thereafter promulgated in accordance with §307 of the Act.

***Grab sample.*** A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

***Indirect discharge or discharge.*** The introduction of pollutants into the POTW from any nondomestic sources regulated under §307 (b), (c) or (d) of the Act.

***Instantaneous maximum allowable discharge limit.*** The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

***Interference.*** A discharge, which alone or in conjunction with a discharge or discharges from other sources, directly or indirectly, both, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's WPDES permit (including an increase in the magnitude or duration of a violation), or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: §405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resources Conservation Recovery Act (RCRA); Chapters 144 and 147, Wis. Stats.; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection Research and Sanctuaries Act.

***Medical waste.*** Isolation wastes, infectious agents, human blood and blood products, pathological wastes,

sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

***New source.***

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under §307(c) of the Act which will be applicable to such source if standards are thereafter promulgated in accordance with that section, provided that:

a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

c. The production of wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraph (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous on-site construction program,

i. Any placement, assembly, or installation of facilities or equipment; or

ii. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

***Noncontact cooling water.*** Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

***Pass through***. A discharge which exits the POTW into waters of the state of Wisconsin in quantities or concentrations which, alone or in conjunction with a discharge of discharges from other sources, is a cause of violation of any requirement of the City's WPDES permit, including an increase in the magnitude or duration of a violation.

***Person.*** Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

***pH.*** A measure of the acidity or alkalinity of a solution, expressed in standard units.

***Pollutant.*** Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewer sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wreched or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes and certain characteristics of wastewater (e.g. pH, temperature, TSS, turbidity, color, BOD, BOD, toxicity or odor).

***Pretreatment.*** The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction of alteration can be obtained by physical, chemical or biological processes, by process changes or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

***Pretreatment requirements.*** Any substantive or

procedural requirement related to pretreatment imposed on user, other than a pretreatment standard.

***Pretreatment standards or standards.*** Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

***Prohibited discharge standards or prohibited discharges.*** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in §20-81 of this article.

***Publicly owned treatment works.*** A "treatment works" as defined by §212 of the Act (33 U.S.C. 1292) which is owned by the City of Appleton. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

***Septic tank waste.*** Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

***Severe property damage.*** Substantial physical damage to property or substantial damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

***Sewage.*** Human excrement and gray water (household showers, dishwashing operations, etc.).

***Significant industrial user:***

(1) A user to categorical pretreatment standards; or

(2) A user that:

a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

b. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant.

c. Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

***Slug load or slug.*** Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in §20-81 of this article.

***Standard Industrial Classification (SIC) code.*** A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

***Stormwater.*** Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

***Suspended solids.*** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquid, and which is removable by laboratory filtering.

***User or industrial user.*** A source of indirect discharge.

***Wastewater.*** Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institution, where treatment or untreated, which are contributed to the POTW.

***Wastewater treatment plant or treatment plant.*** That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-70. Significant industrial use designation.**

The City shall designate users as significant industrial users according to the definition in §20-69. The City shall maintain a list of significant industrial users. The City shall provide this list to the Department of Natural Resources and shall notify the Department of changes to the list and reasons for the changes.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-71. State and federal regulations.**

In addition to complying with this article, users shall

comply with all applicable pretreatment standards and requirements established by the U.S. Environmental Protection Agency and the Department of Natural Resources that supplement or supersede this article.

The City shall enforce all applicable pretreatment standards and requirements according to the requirements of the general pretreatment regulations: 40 CFR Part 403.8(f)(1) and Wis. Admin. Code NR 211.22. The City shall perform the following functions:

(1) Deny or condition new or increased discharge of pollutants, or changes in the nature of pollutants discharged to the POTW by industrial users where such discharges do not meet applicable pretreatment standards and requirements or where such discharge causes the POTW to violate its WPDES permit.

(2) Require compliance with applicable pretreatment standards and requirements by industrial users.

(3) Control through permit, order or similar means the discharge to the POTW by each industrial user. Wastewater discharge permits shall be handled pursuant to division 4 of this article.

(4) Require the development by industrial users of compliance schedules pursuant to §20-141(b)(7) of this article.

(5) Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent information supplied by industrial users, whether industrial users are complying with applicable pretreatment standards and requirements. These procedures are outlined in division 7 of this article.

(6) Obtain remedies, including injunctive relief, for any industrial users

a. Noncompliance with any pretreatment standard or requirement;

b. Failure to allow the POTW to enter and to carry out inspections and monitoring activities;

c. Noncompliance with any reporting requirement imposed by the POTW or by Wis. Admin. Code NR 211.

(7) Have the authority to seek or assess civil or criminal penalties pursuant to division 10 of this article.

(8) After informal notice to the industrial user, immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonably appear to present an imminent danger to the health or welfare of persons pursuant to §20-183 and §20-184 of this article.

(9) After notice of the industrial user and an opportunity to respond, halt or prevent any discharge to the POTW which endangers or may endanger the environment or which threatens to interfere with the operation of the POTW pursuant to §20-184 and §20-184 of this article.

(10) Comply with confidentiality pursuant to division 8 of this article.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-72. Fees.**

(a) The Director of Utilities may establish adequate and reasonable fees for the activities necessary to administer pretreatment standards and requirements or any other State or federal regulations. Fees may include, but are not limited to, fees for wastewater discharge permit application or renewal, fees for septage and other waste haulers permits, fees for discharging septage or other hauled waste and fees for industrial monitoring and laboratory analysis.

(b) The Director of Utilities and the Director of Finance for the City shall set forth the applicable fees in the City's schedule of charges and fees jointly for approved by the Common Council.

(Ord 60-94, §1, 5-4-94)

**Secs. 20-73 – 20-80. Reserved.**

## DIVISION 2. GENERAL SEWER USE REQUIREMENTS

### Sec. 20-81. Prohibited discharge standards.

(a) ***General prohibitions.*** No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards for requirements.

(b) ***Specific prohibitions.*** No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater.

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than one hundred forty degrees (140º) F (60º C) using the test methods specified in 40 CFR 261.21.

(2) Pollutants that will cause corrosive structural damage to the sewerage system, including but not limited to discharges with a pH lower than 5.0 s.u. or higher than 12.4 s.u.

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the sewerage system or otherwise interfere with the operation of the POTW resulting in interference;

(4) Pollutants, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(5) Wastewater having a temperature greater than one hundred fifty degrees (150º) F (65º C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degrees (104º) F (40º C);

(6) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in concentrations greater than twenty-five (25) mg/l;

(7) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants, except at discharge points designated by the Director of Utilities in accordance with §20-194 of this article.

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with the other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts colors to the treatment plant's effluent.

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

(12) Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, deionized water and unpolluted wastewater, unless specifically authorized by the Director of Utilities.

(13) Sludge, screenings or other residues from the pretreatment of industrial wastes;

(14) Medical wastes, except as specifically authorized by the Director of Utilities in a wastewater discharge permit;

(15) Wastewater causing, along or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

(16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

(17) Fats, oils or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l; or

(18) Wastewater causing two (2) readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, or more than five percent (5%) or

any single reading over ten percent (10%) of the lower explosive limit of the meter.

(19) Condensate or non-contact cooling water except when generated by:

a. One- (1-) or Two- (2-) Family buildings, or

b. All other structures with non-conforming conditions under this section until such time that the structure undergoes repairs or renovations, the cost of which exceeds twenty percent (20%) of the structure's fair market value.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(c) ***Inspections and right of entry***. In the discharge of his or her duties, the Director of Public Works or Director of Utilities, or an authorized representative, thereof, shall have the authority to enter, during reasonable hours, any building, structure or premises in the City to inspect for any violations of this section and enforce the provisions of this section for the purpose of any public protection. In addition to the foregoing, such inspections may be conducted in any of the following circumstances:

(1) During such times that the City is in the process of replacing sanitary mains or laterals adjacent to a particular property;

(2) During such times when City personnel, including but not limited to the Water Meter Crew, are required to enter a property for other business.

(3) During such times when City personnel identify certain areas within the City that are experiencing unusually high levels of infiltration into the POTW.

(Ord 60-94, §1, 5-4-94, Ord 44-04, §1, 2-23-04, Ord 191-04, §1, 1-1-05)

**Sec. 20-82. Categorical pretreatment standards.**

(a) Categorical pretreatment standards for specific point source categories as set forth in 40 CFR Chapter I, subchapter N, or Wis. Admin. Code NR 221 to 297 shall apply. Limits in categorical pretreatment standards shall apply to the effluent from the process regulated by the standard, unless otherwise specified in the standard. Limits in categorical pretreatment standards shall apply to waste streams which are transported off-site for disposal as well as those discharged on site. Industrial users shall comply with applicable categorical pretreatment standards, in addition to complying with the general prohibitions established in §20-81(b) of this article, unless specifically noted otherwise in the categorical pretreatment standard.

(b) Compliance dates.

(1) All industrial users, except new sources, shall comply with the applicable categorical pretreatment standards within three (3) years from the effective date of the standard or within a shorter time period if specified in the applicable standard. A direct discharger which becomes an industrial user after promulgation of an applicable categorical pretreatment standard may not be considered a new source unless it falls within the definition of a "new source" contained in §20-69(p) of this article.

(2) New sources shall install, have in operating condition and start up of all the pollution control equipment required to meet the applicable pretreatment standards before beginning discharge. Within the shortest feasible time, not to exceed ninety (90) days, new sources shall meet all applicable pretreatment standards.

(c) When the categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director of Utilities may impose equivalent concentration or mass limits in accordance within 40 CFR 403.6(c).

(d) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director of Utilities shall impose an alternate limit using the combined wastestream formula in 40 CFR 4033.6(e).

(e) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(f) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-83. Local limits.**

The following pollutant limits are established to

protect against pass through and interference. No person shall discharge wastewater containing in excess of the following:

| | |
|---|---|
| Aluminum, total | 70.0 mg/l |
| Arsenic, total | 1.0 mg/l |
| Cadmium, total | 0.3 mg/l |
| Chromium, total | 7.0 mg/l |
| Copper, total | 3.5 mg/l |
| Cyanide, total | 0.3 mg/l |
| Lead, total | 2.0 mg/l |
| Mercury, total | 2.0 ug/l (microgram/liter) |
| Nickel, total | 2.0 mg/l |
| Zinc, total | 10.0 mg/l |

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Director of Utilities may impose mass limitations in addition to, or in place of, the concentration-based limitations above.
(Ord 60-94, §1, 5-4-94; Ord 16-00, §1, 2-5-00)

**Sec. 20-84. City's right of revision.**

The City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-85. Dilution.**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Director of Utilities may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-86. Bypass.**

(a) A bypass that does not result in a violation of any pretreatment standard or requirement is prohibited except where the bypass is necessary for essential maintenance.

(b) A bypass that results in a violation of any pretreatment standard or requirement is prohibited unless:

(1) Bypass is necessary to prevent loss of life, personal injury or severe property damage;

(2) No feasible alternatives to the bypass exist, such as use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance; and

(3) a. If an industrial user knows in advance of the need for a bypass, it notifies the control authority at least ten (10) days before the bypass if possible or otherwise as soon as possible; or

b. An industrial user orally notifies the control authority of an unanticipated bypass within twenty-four (24) hours from the time the industrial user becomes aware of the bypass and provides a written submission, within five (5) days of the time the industrial user becomes aware of the bypass, containing:

1. A description of the bypass and its cause;

2. The duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the time it is expected to end; and

3. A description of the steps taken or planned to prevent recurrence of the bypass.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-87. Amalgam management at dental offices.**

(a) ***Definitions***. For the purposes of this section the following words and phrases shall be as defined herein.

(1) ***Amalgam separator*** is a device that employs filtration, settlement, centrifugation, or ion exchange to remove amalgam and its metal constituents from a dental office vacuum system before it discharges to the sewer.

(2) ***Amalgam waste*** means and includes non-contact amalgam (amalgam scrap that has not been in contact with the patient); contact amalgam (including, but not limited to, extracted teeth containing amalgam); amalgam sludge captured by chairside traps,

vacuum pump filters, screens, and other amalgam trapping devices; used amalgam capsules; and leaking or unusable amalgam capsules.

(3) ***ISO 11143*** is the International Organization for Standardization's standard for amalgam separators. Amalgam separators meeting ISO 11143 standards accomplishes ninety-five percent (95%) or greater mercury removal efficiency.

(b) All owners and operators of dental facilities that remove or place amalgam fillings shall comply with the following waste management practices:

(1) No person shall rinse chairside traps, vacuum screens, or amalgam separators equipment in a sink or other connection to the sanitary sewer.

(2) Owners and operators of dental facilities shall ensure that all staff members who handle amalgam waste are trained in the proper handling, management and disposal of mercury-containing material and fixer-containing solutions, and shall maintain training records that shall be available for inspection by the Director of Utilities or designee during normal business hours.

(3) Amalgam waste shall be stored and managed in accordance with the instructions of the recycler or hauler of such materials.

(4) Bleach and other chlorine-containing disinfectants shall not be used to disinfect the vacuum line system.

(5) The use of bulk mercury is prohibited. Only pre-capsulated dental amalgam is permitted.

(c) All owners and operators of dental vacuum suction systems shall comply with the following:

(1) An ISO 11143 certified amalgam separator device shall be installed for each dental vacuum suction system on or before March 31, 2012; provided, however, that all dental facilities that are newly constructed on and after the effective date of this ordinance shall include an installed ISO 11143 certified amalgam separator device. The installed device must be ISO 11143 certified as capable of removing a minimum of ninety-five percent (95%) of amalgam. The amalgam separator system shall be certified at flow rates comparable to the flow rate of the actual vacuum suction system operation. Neither the separator device nor the related plumbing shall include an automatic flow bypass. For facilities that require an amalgam separator that exceeds the practical capacity of ISO 11143 test methodology, a non-certified separator will be accepted, provided that smaller units from the same manufacturer and of the same technology are ISO-certified.

(2) Proof of certification and installation records shall be submitted to the Department of Utilities by May 31, 2012 or within thirty (30) days of installation for new sources.

(3) Amalgam separators shall be maintained in accordance with manufacturer recommendations. Installation, certification, and maintenance records shall be maintained for a minimum of five (5) years and shall be made available to the Department of Utilities for inspection and copying upon request.

(4) From the contractors used to remove amalgam waste, dental offices shall obtain records for each shipment showing the following:

a. The volume or mass of amalgam waste shipped.

b. The name and address of the destination.

c. The name and address of the contractor.

These records shall be maintained for five (5) years and made available to the Department of Utilities for inspection and copying upon request.

(5) Dental clinics shall allow the Director of Utilities or designee to inspect the vacuum system, amalgam separator, amalgam waste storage area, and other areas deemed necessary to determine compliance with this section. Inspections shall occur by appointment during the normal operating hours of the dental clinic as long as advance notice does not impede enforcement of this section.

(d) Failure to comply with sections (b) and (c) by September 1, 2012 shall result in the dental office obtaining a wastewater discharge permit as required by Article III, Chapter 20, Municipal Code of the City of Appleton.

(1) All regulations, reporting requirements, fees, and administrative enforcement remedies shall apply as stated in Article III, Chapter 20, Municipal Code of the City of Appleton.

(e) All dental facilities that handle amalgam wastes shall additionally comply with all additional state and federal regulations, as now exist or may be enacted in the future regarding the disposal of said wastes.
(Ord 168-11, §1, 8-9-11)

**Secs. 20-88 – 20-90. Reserved.**

## DIVISION 3. PRETREATMENT OF WASTEWATER

**Sec. 20-91. Pretreatment facilities.**

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in §20-81 of this article within the time limitations specified by EPA, the State or Director of Utilities, whichever is more stringent.

(1) Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Director of Utilities for review, and shall be acceptable to the Director of Utilities before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility for modifying such facilities are necessary to produce a discharge acceptable to the City under the provisions of this article.

(2) The Department of Natural Resources has separate requirements for the review of plans, specifications and operating procedures of proposed pretreatment facilities. User shall comply with these requirements as well.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-92. Additional pretreatment measures.**

(a) Whenever deemed necessary, the Director of Utilities may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate point of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article.

(b) The Director of Utilities may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(c) Grease, oil and sand interceptors shall be provided when, in the opinion of the Director of Utilities, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity

approved by the Director of Utilities and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the user at their expense.

(d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-93. Accidental discharge/slug control plans.**

At least once every two (2) years, the Director of Utilities shall evaluate whether such significant industrial user needs an accidental discharge/slug control plan. The Director of Utilities may require any user to develop, submit for approval and implement such a plan. Alternatively, the Director of Utilities may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including non-routine batch charges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the Director of Utilities of any accidental or slug discharge, as required by §20-146 of this article; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures, or equipment measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-94. Hauled wastewater.**

(a) Septic tank wastewater may be introduced into the POTW only at locations designated by the Director of Utilities, and at such times are established by the Director of Utilities. Such waste shall not violate division 2 of this article or any other requirements established by the City. The Director of Utilities may require septic tank waste haulers to obtain wastewater discharge permits. The Director of Utilities may collect samples of each hauled load to ensure compliance with applicable standards.

(b) The Director of Utilities shall require haulers of industrial waste to obtain wastewater discharge permits. The Director of Utilities may require generators of hauled industrial waste to obtain wastewater discharge permits. The Director of Utilities also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.

(c) Industrial waste haulers may discharge loads only at locations designated by the Director of Utilities. No load may be discharged without prior consent of the Director of Utilities. The Director of Utilities may collect samples of each hauled load to ensure compliance with applicable standards. The Director of Utilities may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a wastetracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents and whether any wastes are RCRA hazardous wastes.
(Ord 60-94, §1, 5-4-94)

**Secs. 20-95 – 20-100. Reserved.**

## DIVISION 4. WASTEWATER DISCHARGE PERMIT

### Sec. 20-101. Wastewater discharge information requests.

When requested by the Director of Utilities, a user must submit information on the nature and characteristics of its wastewater within ninety (90) days of the request. The Director of Utilities is authorized to prepare a form for this purpose and may periodically require users to update this information.
(Ord 60-94, §1, 5-4-94)

### Sec. 20-102. Wastewater discharge permit requirement.

(a) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director of Utilities, except that a significant industrial user that has filed a timely application pursuant to §20-103 of this article may continue to discharge for the time period specified therein.

(b) The Director of Utilities may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article.

(c) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subject the wastewater discharge permittee to the sanctions set out in divisions 10 and 11 of this article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state or local law.
(Ord 60-94, §1, 5-4-94)

### Sec. 20-103. Wastewater discharging permitting – existing connections.

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this article and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the Director of Utilities for a wastewater discharge permit in accordance with §20-105 of this article, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this article except in accordance with a wastewater discharge permit issued by the Director of Utilities.
(Ord 60-94, §1, 5-4-94)

### Sec. 20-104. Same – New connections.

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with §20-105 of this article, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.
(Ord 60-94, §1, 5-4-94)

### Sec. 20-105. Wastewater discharge permit application contents.

All users required to obtain a wastewater discharge permit must submit a permit application. The Director of Utilities may require all users to submit as part of an application the following information:

(1) All information required by §20-141(b) of this article;

(2) Description of activities, facilities and plat processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.

(3) Number and type of employees, hours of operation and proposed or actual hours of operation;

(4) Each product produced by type, amount, process or processes and rate of production;

(5) Type and amount of raw materials processed (average and maximum per day);

(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, and appurtenances by size, location and elevation and all points of discharge;

(7) Time and duration of discharges; and

(8) Any other information as may be deemed necessary by the Director of Utilities to elevate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user of revision.
(Ord 60-94, §1, 5-4-94)

### Sec. 20-106. Application signatories and certification.

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
(Ord 60-94, §1, 5-4-94)

**Sec. 20-107. Wastewater discharge permit decisions.**

The Director of Utilities will evaluate the data furnished by the user and may require additional information. Within ninety (90) days of receipt of a complete wastewater discharge permit application, the Director of Utilities will determine whether or not to issue a wastewater discharge permit. The Director of Utilities may deny any application for a wastewater discharge permit.
(Ord 60-94, §1, 5-4-94)

**Secs. 20-108 – 20-115. Reserved.**

## DIVISION 5. WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

**Sec. 20-116. Wastewater discharge permit duration.**

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the decision of the Director of Utilities. Each wastewater discharge permit will indicate a specified date upon which it will expire.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-117. Wastewater discharge permit contents.**

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Director of Utilities to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal and protect against damage to the POTW.

(1) Wastewater discharge permits must contain:

a. A statement that indicates wastewater permit duration, which in no event shall exceed five (5) years;

b. A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with §20-130 of this article, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

c. Effluent limits based on applicable pretreatment standards;

d. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency and sample type based on federal, state and local law; and

e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state and local law.

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for low regulation and equalization;

b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

h. Other conditions as deemed appropriate by the Director of Utilities to ensure compliance with this article, and state and federal laws, rules and regulations.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-118. Wastewater discharge permit appeals.**

The Director of Utilities shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Director of Utilities to reconsider the terms of a wastewater discharge permit within twenty (20) days of its issuance.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater permit.

(3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(4) If the Director of Utilities fails to act within ninety (90) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do to by filing a complaint with the Circuit Court of Outagamie County, Wisconsin.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-119. Wastewater discharge permit modification.**

The Director of Utilities may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to the public, the City's POTW, personnel or the receiving waters;

(5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reports;

(7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(8) To correct typographical or other errors in the wastewater discharge permit; or

(9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-120. Wastewater discharge permit transfer.**

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least ninety (90) days advance notice to the Director of Utilities and the Director of Utilities approves the wastewater discharge permit transfer. The notice to the Director of Utilities must include a written certification by the new owner or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of the facility transfer.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-121. Wastewater discharge permit revocation.**

The Director of Utilities may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the Director of Utilities of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the Director of Utilities of changed conditions pursuant to §20-145 of this article;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self-monitoring reports;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the Director of Utilities timely access to the facility premises and records;

(7) Failure to meet effluent limitations;

(8) Failure to pay fines;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey or the wastewater discharge permit application;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-122. Wastewater discharge permit reissuance.**

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with §20-105 of this article, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-123. Regulation of waste received from other jurisdictions.**

(a) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the Director of Utilities shall enter into an intermunicipal agreement with the contributing municipality.

(b) Prior to entering into an agreement required by paragraph (a), above, the Director of Utilities shall request the following information from the contributing municipality:

(1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;

(2) An inventory of all users located within the

contributing municipality that are discharging to the POTW; and

(3) Such other information as the Director of Utilities may deem necessary.

(c) An intermunicipal agreement, as required by paragraph (a), above, shall continue the following conditions:

(1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this article and local limits which are not at least as stringent as those set out in §20-84 of this article. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes to the City's ordinance or local limits;

(2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Director of Utilities; and which of these activities will be conducted jointly by the contributing municipality and the Director of Utilities;

(4) A requirement for the contributing municipality to provide the Director of Utilities with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(5) Limits on the nature, quality and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing municipality's discharge;

(7) A provision ensuring the Director of Utilities access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling and any other duties deemed necessary by the Director of Utilities; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

(Ord 60-94, §1, 5-4-94)

**Secs. 20-124 – 20-140. Reserved.**

## DIVISION 6. REPORTING REQUIREMENTS

### Sec. 20-141. Baseline monitoring reports.

(a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users subject to such standard currently discharging to or scheduled to discharge to the POTW shall submit to the Director of Utilities a report which contains the information listed in paragraph (b) below. At least ninety (90) days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Director of Utilities a report which contains the information listed in paragraph (b) below. A new source shall also report the method of pretreatment it intends to use to meet applicable categorical standards and shall provide estimates of its anticipated flow and quality of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(1) ***Identifying information.*** The name and address of the facility, including the name of the operator and owner.

(2) ***Environmental permits.*** A list of any environmental control permits held by or for the facility.

(3) ***Description of operations.*** A brief description of the nature, average rate of production and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) ***Flow measurement.*** Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(5) ***Measurement of pollutants.***

a. The categorical pretreatment standards applicable to each regulated process.

b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Director of Utilities, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in §20-150 of this article.

c. Sampling must be performed in accordance with procedures set out in §20-151 of this article.

(6) ***Certification.*** A statement, reviewed by the user's authorized representative and certified by a qualified professional, including whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) ***Compliance schedule.*** If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O & M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in §20-142 of this article.

(8) ***Signature and certification.*** All baseline monitoring reports must be signed and certified in accordance with §20-106 of this article.

(Ord 60-94, §1, 5-4-94)

### Sec. 20-142. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by §20-141(b)(7) of this article:

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events including, but are not limited to, hiring an engineer, completing preliminary and final plans,

executing contracts for major components, commencing and completing construction and beginning and conducting routine operation);

(2) No increment referred to above shall exceed nine (9) months;

(3) The user shall submit a progress report to the Director of Utilities no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(4) In no event shall more than nine (9) months elapse between such progress reports to the Director of Utilities.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-143. Reports on compliance with categorical pretreatment standard deadline.**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Director of Utilities a report containing the information described in §§20-141(b)(4) – (6) of this article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed terms of allowable pollutants discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with §20-106 of this article.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-144. Periodic compliance reports.**

(a) All significant industrial users shall, at a frequency determined by the Director of Utilities but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with §20-106 of this article.

(b) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(c) If a user subject to the reporting requirement in this section monitors any pollutant, more frequently than required by the Director of Utilities, using the procedures prescribed in §20-151 of this article, the results of this monitoring shall be included in this report.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-145. Reports of changed conditions.**

Each user must notify the Director of Utilities of any planned significant changes to the user's operation or system which might alter the nature, quality, or volume of its wastewater at least (90) days before the change. The list shall include the discharge of those listed or characterized hazardous wastes for which the user has submitted initial notification under 40 CFR 40.12(p) or §20-145 of this article.

(1) The Director of Utilities may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under §20-105 of this article.

(2) The Director of Utilities may issue a wastewater discharge permit under §20-107 of this article or modify an existing wastewater discharge permit under §20-109 of this article in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes including, but are not limited to, flow increases of twenty percent (20%) or greater, the discharge of any previously unreported pollutants, and long term production rate changes of twenty percent (20%) or more.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-146. Reports of potential problems.**

(a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomarily batch discharge or slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Director of Utilities of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and

corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the Director of Utilities, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this ordinance.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (a) above. Employers shall ensure that all employees who may cause a discharge to occur are advised of the emergency notification procedure.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-147. Reports from unpermitted users.**

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Director of Utilities as the Director of Utilities may require.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-148. Notice of violation/repeat sampling and reporting.**

If sampling performed by a user indicates a violation, the user must notify the Director of Utilities within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director of Utilities within thirty (30) days after becoming aware of the violation. The user is not required to re-sample if the Director of Utilities monitors at the user's facility at least once a month, or if the Director of Utilities samples between the user's initial sampling and when the user receives the results of this sampling.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-149. Notification of the discharge of hazardous waste.**

(a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director and DNR Bureau of Hazardous Waste Management, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under §20-145 of this article. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §20-141, §20-143 and §20-144 of this article.

(b) Dischargers are exempt from the requirements of paragraph (a) above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantifies of any hazardous wastes do not require additional notification.

(c) In case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste, the user must notify the Director of Utilities, the EPA Regional Waste Management Waste Division Director, the State Hazardous Waste Authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable federal or state law.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-150. Analytical requirements.**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-151. Sample collection.**

(a) Except as indicated in paragraph (b) below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event low proportional sampling is infeasible, the Director of Utilities may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(b) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-152. Timing.**

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-153. Record keeping.**

Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the result of each analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the Director of Utilities.
(Ord 60-94, §1, 5-4-94)

**Secs. 20-154 – 20-160. Reserved.**

## DIVISION 7. COMPLIANCE MONITORING

### Sec. 20-161. Right of entry; inspection and sampling.

The Director of Utilities shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. Users shall allow the Director of Utilities ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties.

(1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards to that, upon presentation of suitable identification, the Director of Utilities will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2) The Director of Utilities shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(3) The Director of Utilities may require the user to locate, construct, install and maintain monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

   a. If a user is required by the Director of Utilities to locate, construct and install monitoring facilities, the user shall do so according to the requirements of the Director of Utilities and any other local building codes. A design of the monitoring facilities shall be submitted for the approval of the Director of Utilities prior to construction of the facilities.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or samples shall be promptly removed by the user at the written or verbal request of the Director of Utilities and shall not be replaced. The costs of clearing such access shall be borne by the user.

(5) Unreasonable delays in allowing the Director of Utilities access to the user's premises shall be a violation of this article.

(Ord 60-94, §1, 5-4-94)

### Sec. 20-162. Search warrants.

If the Director of Utilities has been refused access to a building, structure or property, or any part thereof, the Director of Utilities may seek issuance of a special inspection warrant, pursuant to Chapter 66 of the Wisconsin Statutes, from the Circuit Court of Outagamie County, Wisconsin.
(Ord 60-94, §1, 5-4-94)

### Secs. 20-163 – 20-165. Reserved.

## DIVISION 8. CONFIDENTIAL INFORMATION

### Sec. 20-166. Generally.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs, and from the Director of Utilities inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Director of Utilities, that the release of such information would divulge that the information, processes or methods of productions entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information shall be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available immediately upon request to governmental agencies for uses related to the WPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.
(Ord 60-94, §1, 5-4-94)

### Secs. 20-167 – 20-170. Reserved.

## DIVISION 9. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

### Sec. 20-171. Generally.

The Director of Utilities shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six- (6-) month period exceed the daily maximum limit for the same pollutant parameter by any amount;

(2) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4) for BOD, TSS, fats, oils and grease, and (1.2) for all other pollutants except pH.

(3) Any other discharge violation that the Director of Utilities believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public.

(4) Any discharge of pollutants that has imminent endangerment to the public or the environment, or has resulted in the Director of Utilities' exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within ninety (90) days after the due date, any required reports, including baseline monitoring report, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation(s) which the Director of Utilities determines will adversely affect the operation or implementation of the local pretreatment program.

**Secs. 20-172 – 20-175. Reserved.**

## DIVISION 10. ADMINISTRATIVE ENFORCEMENT REMEDIES

**Sec. 20-176. Notice of noncompliance.**

When the Director of Utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued herein, or any other pretreatment standard or requirement, the Director of Utilities may serve upon that user a written notice of noncompliance. Within thirty (30) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Director of Utilities. Submission of this plan in no way relieves the user of liability for any violations occurring before or after the receipt of the notice of noncompliance. Nothing in this section shall limit the authority of the Director of Utilities to take any action, including emergency actions or any other enforcement action without first issuing a notice of noncompliance.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-177. Notification of violation.**

When the Director of Utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder of any other pretreatment standard or requirement, and has failed to provide an acceptable plan for corrective action as required in §20-176, the Director of Utilities may serve upon that user a written notice of violation. Within thirty (30) days of the receipt of this notice, an explanation of the violation and plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by this user to the Director of Utilities. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Director of Utilities to take any action, including emergency actions or any other enforcement action without first issuing a notice of noncompliance.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-178. Consent orders.**

The Director of Utilities may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include a specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §20-179 and §20-180 of this article and shall be judicially enforceable.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-179. Show cause hearing.**

The Director of Utilities may order a user which has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director of Utilities and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-180. Compliance orders.**

When the Director of Utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Director of Utilities may issue an order to the user responsible for the discharge directing that the user come into compliance with a specified time. If the user does not come into compliance within the time provided, sewer service may be discounted unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-181. Cease and desist orders.**

When the Director of Utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director of Utilities may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge;

(3) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord 60-94, §1, 5-4-94)

**Sec. 20-182. Administrative penalties.**

(a) When the Director of Utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Director of Utilities may charge a penalty to such user in an amount not to exceed ten thousand dollars ($10,000) per day. Such penalties shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, penalties shall be assessed for each day during the period of violation.

(b) Unpaid charges and penalties shall, after thirty (30) days, be assessed an additional penalty of one percent (1%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the user's property will be sought for unpaid charges and penalties.

(c) Users desiring to dispute such penalties must file a written request for the Director of Utilities to reconsider the penalty along with full payment of the penalty amount within ten (10) days of being notified of the penalty. Where a request has merit, the Director of Utilities may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Director of Utilities may add the costs of preparing administrative enforcement actions, such as notices and orders, to the penalty.

(d) Issuance of an administrative penalty shall not be a bar against, or a prerequisite for, taking any other action against the user.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-183. Emergency suspensions.**

The Director of Utilities may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened

discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director of Utilities may also immediately suspend a user's discharge, after notice and opportunity to respond, that threaten to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director of Utilities may take such steps as deemed necessary, including immediate suspension order, the Director of Utilities may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The Director of Utilities may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Director of Utilities that the period of endangerment has passed, unless the termination proceedings in §20-183 of this article are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director of Utilities prior to the date of any show cause or termination hearing under §20-178 or §20-183 of this article.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.
(Ord 60-94, §1, 5-4-94)

**Sec. 20-184. Termination of discharge.**

In addition to the provisions of §20-131 of this article, any user who violates the following conditions is subject to discharge termination:

(1) Violation of wastewater discharge permit conditions;

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(3) Failure to report significant changes in operations or wastewater volume, constituents and characteristic prior to discharge;

(4) Refusal of reasonably access to the user's premises for the purpose of inspection, monitoring or sampling; or

(5) Violation of the pretreatment standards in division 2 of this article.

Such user shall be notified for the proposed termination of its discharge and be offered an opportunity to show cause under §20-178 of this article why the proposed action should not be taken. Exercise of this option by the Director of Utilities shall not be a bar to, or a prerequisite for, taking any other action against the user.

**Sec. 20-185. Reserved.**

## DIVISION 11. JUDICIAL ENFORCEMENT REMEDIES

### Sec. 20-186. Injunctive relief.

When the Director of Utilities finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued thereunder or any other pretreatment standard or requirement, the Director of Utilities may petition the Circuit Court for Outagamie County through the Appleton City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by this article on activities of the user. The Director of Utilities may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief, including a requirement for the user to conduct environmental remediation. A petition for relief shall not be a bar against, or a prerequisite for, taking any other action against a user.
(Ord 60-94, §1, 5-4-94)

### Sec. 20-187. Civil penalties.

(a) A user who has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement shall be liable to the City of Appleton for a maximum civil penalty of ten thousand dollars ($10,000) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The Director of Utilities may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities including sampling and monitoring expenses and the cot of any actual damages incurred by the City of Appleton.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the users violation; corrective actions by the user, the compliance history of the user and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.
(Ord 60-94, §1, 5-4-94)

### Sec. 20-188. Criminal prosecution.

Any user alleged to be in violation of the criminal laws of the state of Wisconsin shall be referred to the District Attorney's Office for review and possible criminal prosecution.
(Ord 60-94, §1, 5-4-94)

### Sec. 20-189. Remedies nonexclusive.

The remedies provided for in this article are not exclusive. The Director of Utilities may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Director of Utilities may take other action against any user when the circumstances warrant. Further, the Director of Utilities is empowered to take more than one (1) enforcement action against any noncompliant user.
(Ord 60-94, §1, 5-4-94)

### Secs. 20-190 – 20-200. Reserved.

## ARTICLE IV. RATES AND CHARGES*

### Sec. 20-201. Definitions.

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

***Commercial user*** means any property used primarily for the conduct of business or for the purpose of buying or selling goods or services.

***Debt retirement costs*** means the annual payment of principal and interest due for the retirement of revenue bonds issued to finance the cost of capital improvements to the sewage system.

***Industrial user*** means any nongovernmental user of the City wastewater treatment works listed in Division A, B, D, E and I of the Standard Industrial Classification Manual of the Office of Management and Budget.

***Municipal user*** means any facility owned and operated by the City municipal corporation or any other municipal agencies.

***Operation and maintenance costs*** means all direct and indirect costs, exclusive of debt service costs, necessary to ensure adequate wastewater treatment on a continuing basis in conformance with state, federal and local requirements and to ensure optional long-term facility management.

***Person*** means any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

***Replacement costs*** means those expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance of which such works are designed and constructed, and shall be considered to be part of operation and maintenance costs.

***Sanitary sewage*** means the combination of liquid and water-carried waste discharged from sanitary plumbing facilities.

***Sanitary sewer service charge*** means a charge levied on users of the treatment works for the cost of retiring sewage system revenue bonds and the cost of operating, maintaining and repairing the sewage system and treatment works.

***Sewage*** means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such groundwater, surface water, stormwater and clear water as may be present.

***User charge*** means a charge levied on users of the treatment works for the costs of operation and maintenance of such works as defined in §35.905-26, Title 40 U.S.C. and is contained within the sanitary sewer service charges as created by this article.

***Wastewater treatment plant*** means any arrangement of devices and structures used for treating sewage.

***Watercourse*** means a channel in which flow of water occurs, either continuously or intermittently.
(Code 1965, §2.11(9); Ord 59-94, §1, 5-4-94)
**Cross reference(s)** – Definitions and rules of construction generally, §1-2.

### Sec. 20-202. Imposed.

It is hereby determined and declared to be necessary for the protection of the health, safety and welfare of the public to allocate all of the cost of collection and treatment of sewage and use of the sewage system of the City to the property served. The cost of such service shall be imposed on the property served as a special charge for current serviced rendered and shall be known as sewer service charges and such charges are hereby imposed by the provisions of this article and W.S.A. §66.0627. For purposes of this article, sewage system shall include without limitation all facilities within or without the City for the collection, transportation, pumping, treatment and disposition of sewage and water-carried wastes created in and to be conducted away from residential, commercial and industrial establishments and public, private and charitable buildings of all kinds. The sewer service charge imposed by this article shall apply equally to all users of the sewer system and shall be such that each user shall pay in direct proportion to the service received. The sewer service charge shall take precedence over any other existing agreements.
(Code 1965, §2.11(1); Ord 59-94, §1, 5-4-94)

### Sec. 20-203. Basis.

The sewer service charges imposed by this article shall be based on either one of the following:

(1) The water meter readings of the City Department of Utilities Water Division, plus the water used by each industry or other user form of all other sources such as wells, rivers and the like. Measurement of any such additional water other than water division meter readings, shall be by meter, weir or other measuring device approved

by the Utilities Manager and installed by the industry or user at his own expense.

(2) The quantity and quality of sewage discharged into the sewage system. The quantity of sewage shall be measured by meter, weir or other measuring device approved by the Utilities Manager and installed by the industry or user at its own expense. The quality of sewage shall be measured by the pounds of suspended solids and the pounds of biochemical oxygen demand (BOD) contained therein. The determination of suspended solids and BOD contained in the waste shall be in accordance with guidelines approved by the EPA and DNR establishing test procedures for the analysis of pollutants. To determine the quality of the sewage and waste, samplings and analyses of twenty-four (24) composite samples shall be made daily by and at the expense of the industry or user and accumulated over the billing period. The City shall have the right to access all measurement and analytical facilities and shall cause sufficient tests to be made to establish the validity of the information being supplied.

The selection of either alternative basis of charges as set out in subsections (1) and (2) of this section shall be made upon the direction of the Utilities Manager.
(Code 1965, §2.11(2); Ord 59-94, §1, 5-4-94)

**Sec. 20-204. Rates.**

(a) The sewer service charges imposed by this article shall be based upon the rates adopted by the Common Council. The rates shall be reviewed at least once annually and shall be such that they produce sufficient revenue to meet all costs budgeted for their effective time period. The users of the sewer service shall be notified annually of the portion of user charges attributable to wastewater treatment services. Said rates shall be on file in the Office of the City Clerk.

(b) The City shall determine the strength of normal domestic waste from its non-monitored customers by subtracting the industrial monitored loading by parameter from the total loading treated by the City. The net pounds of biochemical oxygen demand (BOD) and total suspended solids from the non-monitored customers shall be divided by 8.34 (a conversion factor) and then divided by the net billable flow (expressed in millions of gallons) from those non-monitored customers to determine whether the strength of the waste is within a reasonable range for a normal domestic household. The City will consider normal domestic strength waste to have a BOD concentration of not more than three hundred (300) milligrams per liter. Should this calculation for BOD be higher than three hundred (300) milligrams per liter, a review will be done of the city users to determine if there are additional users that should be monitored for high strength water. This methodology shall be followed to assure that the charges are proportionately made to all customers. No users shall pay less per one thousand (1,000) gallons than the current effective rate associated with the per unit costs for environmental treatment based on the waste characteristics determined to be applicable for domestic or industrial users.
(Code 1965, §2.11(3); Ord 1-90, §1, 1-10-90; Ord 99-91, §1, 9-18-91; Ord 146-91, §1, 12-18-91; Ord 17-92, §1, 3-4-92; Ord 59-94, §1, 5-4-94; Ord 63-94, §1, 6-4-94, Ord 17-00, §1, 2-5-00)

**Sec. 20-205. Exceptions and modifications of charges.**

In cases where there is no water meter or acceptable water consumption record the quantity of water used shall be determined in such reasonable and accurate manner as the Utilities Manager may direct and the charge shall be computed. If any building discharging sanitary sewage, industrial wastes, water and other liquid, directly or indirectly, into the public sanitary sewerage system can show to the satisfaction of the Utilities Manager that a portion of the water used does not and cannot enter the public sanitary sewage system, the City may determine by a reasonable and accurate method, the amount of the water used or the percentage of water entering the public sanitary sewage system chargeable to such owner or user. Such amount or percentage, when so determined, shall then constitute the basis of sewer service charges. Any additional meter required to determine the quantity of water actually entering the sewage system shall be installed at the expense of the owner or other interested party.
(Code 1965, §2.11(5); Ord 59-94, §1, 5-4-94)

**Sec. 20-206. Collections.**

(a) The City Department of Finance is hereby authorized as the collection agency for the City and the industrial monitoring and sewer service charges shall be collected quarterly at the same time as water payments become due. Bills shall be prepared by the Department of Finance and sent to the owner or occupant of each premises served by a public sanitary sewer. If partial payment is made on any bill, the payment shall apply equally to the water and sewer portions of the bill. The Department of Finance shall allocate the actual cost of billing and collecting.

(b) The bills for water, industrial monitoring and sanitary sewer charges shall be mailed to the designated utility bill recipient, but this mailing shall not relieve the owner of the property from liability for rental property in the event payment is not made as required in this article. The owner of any property served which is occupied by tenants shall have the right to examine collection records of

the City for the purpose of determining whether such rates and charges have been paid for such tenants, provided that such examination shall be made at the office at which the records are kept and during the hours that such office is open for business.
(Code 1965, §2.11(6); Ord 76-93, §1, 4-21-93; Ord 59-94, §1, 5-4-94)

**Sec. 20-207. Lien for delinquent charges.**

(a) Industrial monitoring and sewer service charges shall not be payable in installments. If industrial monitoring and sewer service charges remain unpaid after a period of thirty (30) days from the date of this invoice, such charge shall become a delinquent special charge and shall become a lien as provided in W.S.A. §66.0703(15) as of the date of delinquency and shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charge. Unpaid charges shall bear interest at the rate of one and one-half percent (1.5%) per month from the date of delinquency.

(b) Sewer service charges shall not be payable in installments. If sewer service charges remain unpaid after a period of twenty (20) days from the date of utility bill, such bill shall become a delinquent special charge and shall become a lien as provided in W.S.A. §66.0703(15). Said charges shall automatically be extended upon the current or next tax roll as a delinquent tax against the property; and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charges. Unpaid charges shall be assessed a one and one percent (1%) per month late payment charge to bills not paid within twenty (20) days of issuance.
(Ord 30-00, §1, 4-22-00)

(c) All delinquent special charges shall be subject to a ten percent (10%) penalty in addition to other charges and prior penalties or interest when the delinquent special charge is extended upon the tax roll.
(Code 1965, §2.11(7); Ord 131-92, §1, 12-2-92; Ord 28-94, §1, 1-5-94; Ord 59-94, §1, 5-4-94)

**Sec. 20-208. Sewage utility charges fund.**

(a) There is hereby created a special fund to be known as the City of Appleton Sewage Utility for the purpose of meeting all necessary expenses of operating, maintaining and repairing the sewage system and all costs of collection and treatment of sewage and for payment of revenue bonds issued for the improvements or expansion of the sewage system. All sewer service charges collected by the Director of Finance shall be entered into this fund together with all such charges which are collected as delinquent taxes pursuant §20-207 and all proceeds resulting from the same of revenue bonds issued for improvement of expansion of the sewage system. Money in the fund shall be used solely for the purpose of paying principal and interest of sewage system revenue bonds and costs of collection and treatment of sewage and costs of operating, maintaining and repairing the sewage system, and the sanitary sewer service charge shall be the sole source of revenue for all such funds. The Department of Finance shall install and maintain records of the fund.

(b) No less than once each calendar year there shall be an audit of the fund to establish:

(1) The sufficiency of revenues generated to cover all operating, maintenance and debt retirement costs.

(2) That the charges to all classes of users are proportionate and equitable.

(3) The proper level of funding for replacement costs.

(c) The fund shall be divided into an operating and maintenance fund, a depreciation fund and a special redemption fund in a manner provided by W.S.A. §66.662(2). Each of these funds shall be maintained at sufficient levels to meet their respective needs and money allocated to operation, maintenance and replacement costs shall be used solely for that purpose.
(Code 1965, §2.11(8); Ord 4-93, §1, 1-6-93; Ord 76-93, §1, 4-21-93; Ord 59-94, §1, 5-4-94)

**Sec. 20-209. Industrial monitoring charges.**

(a) ***Purpose.*** It is the purpose of this section to provide for the recovery of costs from the users of the City's POTW for the implementation of the program established in this article. The applicable charges or fees shall be set forth in the City's schedule of charges and fees, to be jointly prepared annually by the Utilities Manager and Director of Finance and approved by the Common Council.

(b) ***Authorized; amount.*** The City may adopt charges and fees which may include:

(1) ***Permit fee.*** The City will charge the industries that are required to have a wastewater discharge permit a permit fee for an original permit and a permit reissuance fee for permit reissuance. The amount of said fees will be on file in the City Clerk's Office.

(2) ***Sampling charge.*** The City will assess the industries a sampling charge for sampling their wastewater with City equipment and manpower. The sampling charges will be on

file in the City Clerk's Office.

(3) ***Laboratory analysis charge.*** The City will assess the industries a laboratory analysis charge to recover the City's expense for analyzing the industrial wastewater discharge samples for specific pollutants. The fee schedule for analysis of specific pollutants will be on file in the City Clerk's Office.

(c) ***Collection.*** The collection of industrial monitoring charges shall be pursuant to §20-206.

(d) ***Lien for delinquent charges.*** The administering of liens for delinquent charges under this section shall be pursuant to §20-207.
(Code 1965, §2.12; Ord 101-91, §1, 9-18-91; Ord 4-93, §1, 1-6-93; Ord 59-94, §1, 5-4-94)

## ARTICLE V. STORMWATER MANAGEMENT SERVICES

### DIVISION 1. GENERAL PROVISIONS

**Sec. 20-226. Findings and necessity.**

The City of Appleton finds that the management of stormwater and other surface water discharge within and beyond the Fox River is a matter that affects the health, safety and welfare of the City, its citizens and businesses and others in the surrounding area. Failure to effectively manage stormwater affects the sanitary sewer utility operations of the City by, among other things, increasing the likelihood of infiltration and inflow in the sanitary sewer. In addition, surface water runoff may create erosion of lands, threaten businesses and residences with water damage and create sedimentation and other environmental damage in the Fox River. Those elements of the system which provide for the collection of and disposal of stormwater and regulation of groundwater are of benefit and provide services to all property within the City of Appleton, including property not presently served by the storm elements of the system. The cost of operating and maintaining the City stormwater management system and financing necessary repairs, replacements, improvements and extension thereof should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom. In order to protect the health, safety and welfare of the public, the Common Council is exercising its authority to establish a stormwater utility and set the rates for stormwater management services. The City is acting under the authority of Chapters 62 and 66 of the Wisconsin Statutes, and particularly at least the following statutes: §62.04, §62.11, §62.16(2), §62.18, §66.0621, §66.0809 and §66.0821.

**Sec. 20-227. Establishment.**

There is hereby established a City of Appleton Stormwater Utility. The operation of the Stormwater Utility shall be under the supervision of the Common Council. The Director of Public Works will be in charge of the Stormwater Utility.

**Sec. 20-228. Authority.**

The City, through the Stormwater Utility, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities as are deemed by the City to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, without limitation by enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls and ponds and such other facilities as will support a stormwater management system.

**Sec. 20-229. Definitions.**

For the purpose of this ordinance, the following definitions shall apply; words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense; the work "shall" is mandatory and not discretionary; the work "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

***Director.*** The term "Director" means the Director of Public Works or his designee.

***Equivalent Runoff Unit (ERU).*** The term "ERU" means the statistical average horizontal impervious area of "single family homes" (single family and mobile homes) within the City of Appleton on the date of adoption of this ordinance. The horizontal impervious area includes, but is not limited to all areas covered by structures, roof extensions, patios, porches, driveways and sidewalks.

***Impervious Area or Impervious Surface.*** These terms mean a horizontal surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rain water. It includes, but is not limited to, semi-impervious surfaces such as compacted clay, as well as streets, roofs, sidewalks, parking lots and other similar surfaces.

***Duplex unit.*** The term "duplex unit" means any residential space identified for habitation by members of the same family attached to only one other residential space or as classified by the City Building Code.

***Dwelling unit.*** The term "dwelling unit" means any residential space identified for habitation by members of the same family or as classified by the City Building Code. A dwelling unit includes, but is not limited to, all duplexes, apartments, residential condominiums and townhouse living units.

***Multifamily unit.*** The term "multifamily unit" means any residential space identified for habitation by members of the same family or as classified by the City Building Code. A dwelling unit includes, but is not limited to, all duplexes, apartments, residential condominiums and townhouse living units.

***Residential property.*** The term "residential property" means any lot or parcel developed exclusively for residential purposes including, but not limited to, single family homes, manufactured homes, multifamily apartment buildings and condominiums.

***Non-residential property.*** The term "non-residential property" means any developed lot or parcel not exclusively residential as defined herein, including, but not limited to, transient rentals (such as hotels and motels), commercial, industrial, institutional, governmental property and parking lots.

***Undeveloped property.*** The term "undeveloped property" means that which has not been altered from its natural state by the addition of any improvements such as a building, structure, impervious surface, change of grade or landscaping. For new construction, a property shall be considered developed pursuant to this ordinance (a) upon issuance of a Certificate of Occupancy, or upon completion of construction or final inspection if no such certificate is issued or (b) where construction is at least fifty percent (50%) complete and construction is halted for a period of three (3) months.

**Sec. 20-230. Connection.**

(a) Property owners shall be required to connect to the City's mini-sewer or storm sewer lateral within twelve (12) months of installation, pursuant to the provisions of §4-270. (Ord 16-97, §1, 3-5-97)

**Secs. 20-231 – 20-235. Reserved.**

## DIVISION 2. RATES AND CHARGES

### Sec. 20-236. Rate charges.

(a) By this ordinance, the Common Council is establishing the rate charge upon each lot and parcel within the City of Appleton for services and facilities provided by the Stormwater Utility. The actual charges to be imposed, the establishment of formulas for calculations of the charges, the establishment of specific customer classifications and any future changes in those rates, formulas, rate charges, and customer classifications, may be made by resolution. All rates established pursuant to this ordinance will be fair and reasonable. The current rates will be on file with the City Clerk.

(b) Rate charges shall be issued to share the costs of the Stormwater Utility. These rate charges may include:

(1) ***Base Charge (BC)*** – The base charge may be imposed on all property in the city. The base charge will be designed to reflect the fact that all properties benefit from the stormwater management activities of the City and that all property contribute in some way to the stormwater discharge that must be managed by the City. The BC will be designed to collect the administrative costs of the storm sewer utility and the portion of capital costs not covered by special assessments. The BC may be based on the size of a parcel of property.

(2) ***Equivalent Runoff Unit Charge (ERU)*** – This charge may be imposed on all property that has any developed impervious area. The ERU will be designed on the basis of a typical residential unit of property. Other units of property will be charged multiples of the ERU based on the impervious area contributing to surface water runoff.

(3) ***Special Charge (SC)*** – This charge may be imposed on property that is in an area specially benefited by a particular stormwater management facility. The SC will be developed to reflect the benefits/services in a particular area that may not be appropriate to spread to property throughout the City. The SC will be calculated on an ERU basis.

(c) The Council may make such other and customer classifications as will be likely to provide reasonable and fair distribution of the costs of the Stormwater Utility. In so doing, the Council may provide credits against certain of the charges set forth above for facilities installed and maintained by the property owner for the purpose of lessening the stormwater flow from that given property.

(d) The City Department of Finance is hereby appointed as the collection agency for the City Stormwater Utility. Bills shall be prepared by the Department of Finance and sent to the owner or occupant of each premise served. The Department of Finance shall allocate the actual cost of billing and collecting.

(e) The bills for Stormwater Utility charges shall be mailed to the designated utility bill recipient, but this mailing shall not relieve the owner of the property from liability for rental property in the event payment is not made as required in this article. The owner of any property served which is occupied by tenants shall have the right to examine collection records of the City for the purpose of determining whether such rates and charges have been paid for such tenants, provided that such examination shall be made at the office at which the records are kept and during the hours that such office is open for business.

(f) Stormwater Utility charges shall not be payable in installments. If Stormwater Utility charges remain unpaid after a period of twenty (20) days from the date of utility bill, such bill shall become a delinquent special charge and shall become a lien as provided in W.S.A. §66.66(15). Said charges shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charges. Unpaid charges shall be assessed a one and one-half percent (1½%) per month late payment charge to bills not paid within twenty (20) days of issuance.

(g) All delinquent special charges shall be subject to a ten percent (10%) penalty in addition to all other charges and prior penalties or interest when the delinquent special charge is extended upon the tax roll.

### Sec. 20-237. Customer classification.

(a) For purposes of imposing the stormwater charges, all lots and parcels within the City are classified as follows:

**ERUs imposed**

| Classification | Public Road | Private Road |
|---|---|---|
| | | |
| Single Family | 1 | 1 |
| Detached Individual Condominiums | 1 | 1 |
| Duplex | .5/unit | 1/unit |
| Duplex Condominiums | .5/unit | 1/unit |
| Multifamily Condominiums | Actual impervious area of the property using aerial photography | |

**ERUs imposed**

| Classification | Public Road | Private Road |
|---|---|---|
| Mobile Homes | .5/unit | 1/unit |
| Bed & Breakfast (fewer than 5 units) | 1 | 1 |
| Bed & Breakfast (5 units or more) | .5/unit | 1/unit |
| Multifamily rental | Actual impervious area of the property using aerial photography | |
| Non-Residential and Multi-Use | One (1) ERU, multiplied by the numerical factor obtained by dividing the total impervious area of a non-residential property by the square footage of one (1) ERU, rounded down to the nearest one-tenth (0.1), i.e.: ERU rate x impervious area / ERU | One (1) ERU, multiplied by the numerical factor obtained by dividing the total impervious area of a non-residential property by the square footage of one (1) ERU, rounded down to the nearest one-tenth (0.1), i.e.: ERU rate x impervious area / ERU |
| Undeveloped | One (1) ERU multiplied by a factor established by resolution then divided by the square footage for one (1) ERU established by resolution | One (1) ERU multiplied by a factor established by resolution then divided by the square footage for one (1) ERU established by resolution |

(b) The Director shall prepare a list of lots and parcels within the City of Appleton and assign a classification to each lot or parcel.

(c) The average square footage of impervious area of ERU is established to be equivalent to 2,368 square feet.

(d) The Director shall be responsible for determining the impervious area based on the best available information, including, but not limited to, data supplied by the City Assessor, aerial photography, the property owner, tenant or developer. The Director may require additional information as necessary to make the determination. The billing amount shall be updated by the Director based on the building permit process and/or best available information.

(e) All unoccupied developed lots and parcels shall be subject to the stormwater utility charges.

(f) The minimum charges for any parcel shall be equal to the rate of four-tenths (0.4) of one (1) ERU.
(Ord 123-07, §1, 8-7-07; Ord 136-08, §1, 10-7-08; Ord 23-11, §1, 1-11-11, Ord 100-13, §1, 1-1-15, Ord 51-15, §1, 6-9-15; Ord 43-16, §1, 5-1-16)

**Sec. 20-238. New construction.**

(a) The property owner shall be responsible for completing the stormwater utility service application form any time a building permit is issued, exclusive of those issued to existing single family residences, or a site plan review is conducted. The form shall be provided by the Division of Inspections with each application for a building permit (exclusive of building permits for single family residences) or application for site plan review. Failure to submit a completed stormwater utility service application form or providing false information on said form, shall result in the penalty as provided in §1-18 of the Municipal Code.
(Ord 129-95, §1, 12-9-95; Ord 132-96, §1, 12-18-96)

(b) The owner shall also be liable for stormwater charges, under this ordinance, for the improvement from the date construction of the improvement began.

**Sec. 20-239. Method of appeal.**

(a) The Stormwater Utility charge may be appealed as follows:

(1) A written appeal shall be filed with the City Clerk prior to the utility charge due date; or

(2) Within thirty (30) days of payment, a written challenge to the stormwater charge must be filed with the City Clerk on behalf of the customer, specifying all bases for the challenge and the amount of the stormwater charge the customer asserts is appropriate. Failure to file a challenge within thirty (30) days of payment waives all rights to later challenge the charge.

(b) The committee of jurisdiction will determine whether the stormwater charge is fair and reasonable, or whether a refund is due the customer. The committee may act with or without a hearing, and will inform the customer in writing of its decision.

(c) The customer has thirty (30) days from the decision of the committee to file a written appeal to the Common Council.

(d) If the Council or the committee determine that a refund is due the customer, the refund will be applied as a credit on the customer's next quarterly stormwater billing, if the refund will not exceed the customer's next quarterly stormwater billing, or will be refunded at the discretion of the Director of Finance.

**Sec. 20-240. Special assessment authority.**

In addition to any other method for collection of the charges established pursuant to this ordinance for stormwater utility costs, the Common Council finds that these charges may be levied on property as a special charge pursuant to §66.0627, Wis. Stats. The charges established hereunder reasonably reflect the benefits conferred on property and may be assessed as special charges. The mailing of the bill for such charges to the owner will serve as notice to the owner that failure to pay the charges when due may result in them being charged pursuant to the authority of §66.0627, Stats. In addition, the City may provide notice each September of any unpaid charges to the Stormwater Utility, which charges, if not paid by November 15, may be placed upon the tax roll under §66.0627, Stats.

**Sec. 20-241. Budget excess revenues.**

The stormwater utility finances shall be accounted for in a separate Stormwater Enterprise Fund by the City. The Utility shall prepare an annual budget, which is to include all operation and maintenance costs, debt service and other costs related to the operation of the stormwater utility. The budget is subject to approval by the Common Council. The costs shall be spread over the rate classifications as determined by the Council. Any excess of revenues over expenditures in a year will be retained by the Stormwater Enterprise Fund for subsequent years' needs.

**Sec. 20-242. Severability.**

If any provision of this ordinance be found illegal, the remaining provisions shall remain in effect.
(Ord 128-95, §1, 12-6-95)

## ARTICLE VI. STORMWATER MANAGEMENT STANDARDS AND PLANNING

### DIVISION 1. IN GENERAL

**Sec. 20-300. Authority**.

(a) This ordinance is adopted by the Common Council of the City of Appleton under the authority granted by §62.234, Wis. Stat. This ordinance supersedes all provisions of a stormwater management ordinance previously enacted under §62.23, Wis. Stat., that relates to stormwater management regulations. Except as specifically provided for in §62.234, Wis. Stat., §62.23, Wis. Stat. applies to this ordinance and to any amendments to this ordinance.

(b) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.

(c) The Common Council of the City of Appleton hereby designates the Director of Public Works or designee to administer and enforce the provisions of this ordinance.

(d) The requirements of this ordinance do not pre-empt more stringent stormwater management requirements that may be imposed by any of the following:

(1) WDNR administrative rules, permits or approvals including those authorized under §281.16 and §283.33, Wis. Stat.

(2) Targeted non-agricultural performance standards promulgated in rules by the WDNR under s. NR 151, Wisconsin Administrative Code.

(Ord 188-03, §1, 10-21-03; Ord 42-16, §1, 5-1-16)

**Sec. 20-301. Findings of fact.**

The Common Council of the City of Appleton finds that uncontrolled post-construction runoff has a significant impact upon water resources and the health, safety, and general welfare of the City of Appleton and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction runoff can:

(a) Degrade physical stream habitat by increasing streambank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows, and increasing stream temperature.

(b) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens, and

other urban pollutants.

(c) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.

(d) Reduce the quality of groundwater by increasing pollutant loads.

(e) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other drainage facilities.

(f) Threaten public health, safety, property and general welfare by increasing major flood peaks, and volumes.

(g) Undermine floodplain management efforts by increasing the incidence and levels of flooding.
(Ord 188-03, §1, 10-21-03; Ord 42-16, §1, 5-1-16)

**Sec. 20-302. Purpose and intent.**

(a) ***Purpose.*** The purpose of this ordinance is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare, and the aquatic environment.

Specific purposes are to:

(1) Further the maintenance of safe and healthful conditions.

(2) Prevent and control the adverse effects of stormwater; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; manage building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.

(3) Control exceedances of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.

(4) Minimize the amount of pollutants discharged from the separate storm sewer to protect waters of the state.

(b) ***Intent.*** It is the general intent of the City of Appleton that this ordinance achieve its purpose through:

(1) Regulating long-term, post-construction stormwater runoff from land development and redevelopment activities.

(2) Controlling the quantity, peak flow rates, and quality of stormwater runoff from land development and redevelopment activities.

(3) Providing services to maintain and enhance the quality of life within the community.

(c) ***Implementation.***

To this end the City of Appleton will manage post-construction stormwater runoff to protect, maintain and enhance the natural environment; diversity of fish and wildlife; human life; property; and recreational use of waterways within the city of Appleton and its extraterritorial area.

This ordinance may be applied on a site-by-site basis. The City of Appleton recognizes, however, that the preferred method of achieving the stormwater performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional stormwater devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the State of Wisconsin. Where such plans are in conformance with the performance standards developed under §281.16, Wis. Stat., for regional stormwater management measures, and have been approved by the City of Appleton, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.
(Ord 188-03, §1, 10-21-03; Ord 42-16, §1, 5-1-16)

**Sec. 20-303. Title.**

This ordinance shall be known as the Stormwater Management Standards and Planning Ordinance for the City of Appleton.
(Ord 188-03, §1, 10-21-03; Ord 42-16, §1, 5-1-16)

**Sec. 20-304. Definitions.**

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

***Adequate sod, or self sustaining vegetative cover*** means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbes, sedges and duff layers of fallen

leaves and woody debris.

***Administering authority*** means a governmental employee that is designated by the City of Appleton to administer this ordinance.

***Agricultural facilities and practices*** has the meaning given in §281.16(1), Wis. Stats.

***Agricultural use*** means bee keeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint, and seed crops; raising of fruits, nuts, and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least thirty-five (35) acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participation in the mile production termination program under 7 USC 1446 (d); and vegetable raising (§91.01(1), Wis. Stat.).

***Atlas 14*** means the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation-Frequency Atlas of the United States, Volume 8 (Midwestern States), published in 2013.

***Average annual rainfall*** means a typical calendar year of precipitation as determined by the Wisconsin Department of Natural Resources for users of models such as WinSLAMM, P8 or equivalent methodology. An average annual rainfall for Green Bay, 1969 (March 29-November 25) is applicable for the City of Appleton.

***Best Management Practice or BMP*** means structural or non-structural measures, practices, techniques, or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

***Business day*** means a day that offices of the City of Appleton are routinely and customarily open for business.

***Cease and desist order*** means a court issued order to halt land disturbing construction activity that is being conducted without the required permit or not in conformance with an existing permit.

***City*** means the City of Appleton.

***Common plan of development or sale*** means a development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A common plan of development or sale includes, but is not limited to, subdivision plans, certified survey maps, and other developments.

***Concentrated flow channel*** means a channel produced by erosion from runoff, or by construction, that would not be removed by tillage operations typically needed to prepare a field for crop production.

***Connected imperviousness*** means an impervious surface connected to the water of the state via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.

***Construction site*** means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

***Design storm*** means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall. Rainfall amounts for 24-hour design rainfall events in Appleton are: 100-year, 5.50 inches; 10-year, 3.51 inches; 5-year, 3.01 inches; 2-year, 2.45 inches, and 1-year, 2.14 inches. The distribution shall be NOAA Atlas 14 MSE4.

***Development*** means residential, commercial, industrial or institutional land uses and associated roads.

***Direct conduits to groundwater*** means wells, sinkholes, swallets, fractured bedrock at the surface, sand or gravel surficial deposits, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.

***Division of land*** means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a 5-year period.

***Effective infiltration area*** means the area of the infiltration system devoted specifically to active infiltration, excluding areas required for site access, berms, pretreatment, or other area required for the installation, operation, or maintenance of the infiltration device.

***Erosion*** means the process by which the land's surface is worn away by the action of the wind, water, ice or gravity.

***Exceptional resource waters*** means waters listed in s. NR 102.11, Wisconsin Administrative Code.

***Existing land use condition*** means the condition of the development site and the adjacent properties that are present at the time of the stormwater permit application.

***Extraterritorial*** means the unincorporated area as defined in Ch. 236, Wis. Stat.

***Fee in lieu*** means a payment of money to the City of Appleton in place of meeting all or part of the stormwater performance standards required by this ordinance.

***Filtering layer*** means soil that has at least a 3-foot deep layer with at least twenty percent (20%) fines; or at least a five- (5-) foot deep layer with at least ten percent (10%) fines; or an engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.

***Final stabilization*** means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established with a density of at least seventy percent (70%) of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.

***Financial guarantee*** means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City of Appleton by the responsible party to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan.

***Governing body*** means the Common Council of the City of Appleton.

***Impervious surface*** means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots, and streets are examples of surfaces that typically are impervious. Gravel surfaces are considered impervious unless specifically designed for infiltration.

***In-fill*** means an undeveloped area of land located within an existing urban sewer service area, surrounded by development or development and natural or man-made features where development cannot occur.

***Infiltration*** means the entry of precipitation or runoff into or through the soil.

***Infiltration system*** means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns, or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.

***Land disturbing construction activity*** means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities and parking lot reconstruction, but does not include agricultural facilities and practices, silviculture activities or parking lot resurfacing.

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

***Landowner*** means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of stormwater BMPs on the property.

***Major Stormwater Management Plan*** means a Stormwater Management Plan for a subdivision or a plan that proposes the use of one or more devices to meet standards or a non-one or two family site that is not considered a Minor Stormwater Management Plan.

***Maintenance agreement*** means a legal document that is filed with the County Register of Deeds as a property deed restriction, and that provides for long-term maintenance of stormwater management practices.

***Maximum extent practicable (MEP)*** means the highest level of performance that is achievable, but is not equivalent to a performance standard, taking into account the best available technology, cost effectiveness and other competing issues such as human welfare, endangered and threatened resources, historic properties and geographic features, pursuant to Sec. 20-311(f) of this ordinance.

***Minor Stormwater Management Plan*** means a Stormwater Management Plan for a site that has a regional stormwater facility in place that meets applicable standards, has a 100-year event conveyance system to the regional facility in place, and is free from unusual conditions, including but not limited to, contamination, critical site designation, change in land use, high impervious ratio, or floodplain.

***Natural wetlands*** means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and that has soils indicative of wet conditions. These wetlands include existing, mitigated, and restored wetlands.

***New development*** means development resulting from the conversion of previously undeveloped land or

agricultural land uses.

***Non-structural measure*** means a practice, technique, or measure to reduce the volume, peak flow rate, or pollutants, in stormwater that does not require the design or installation of fixed stormwater management facilities.

***NRCS*** means the Natural Resources Conservation Service of the U.S. Department of Agriculture (USDA) formerly known as the SCS (Soil Conservation Service of the USDA).

***NRCS MSE4 distribution*** means a specific precipitation distribution developed by the United States Department of Agriculture, Natural Resources Conservation Service, using precipitation data from Atlas 14.

***Off-site*** means lands located outside the subject property boundary described in the permit application.

***On-site*** means lands located within the subject property boundary described in the permit application.

***Ordinary high-water mark*** has the meaning in s. NR 115.03(6), Wisconsin Administrative Code.

***Outstanding resource waters*** means waters listed in s. NR 102.10, Wisconsin Administrative Code.

***Parking lot reconstruction*** means removing asphalt to the base course by milling or other construction methods.

***Parking lot resurfacing*** means removing a portion of an asphalt surface but leaving at least one inch (1") thickness of asphalt surface in place.

***Peak flow or peak flow discharge rate*** means the maximum rate that a unit volume of stormwater is discharged. This is usually expressed in terms of cubic feet per second (cfs).

***Percent fines*** means the percentage of a given sample of soil, that passes through a Number 200 sieve, in accordance with the "American Society for Testing and Materials", current standard.

***Performance security*** means cash or an irrevocable letter of credit submitted to the City of Appleton by the permit holder to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan and to recover any costs incurred by the City for design, engineering, preparation, checking and review of plans and specifications, regulations and ordinances; and legal, administrative and fiscal work undertaken to assure and implement such compliance.

***Performance standard*** means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

***Permit*** means a written authorization made by the City of Appleton to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

***Permit application fee*** means a sum of money paid to the City of Appleton by the permit applicant for the purpose of recouping expenses incurred by the City in administering the permit.

***Pervious surface*** means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests, or other similar vegetated areas are examples of surfaces that typically are pervious.

***Pollutant*** has the meaning in §283.01(13), Wis. Stat.

***Pollution*** has the meaning in §281.01(10), Wis. Stat.

***Post-construction site*** means a construction site following the completion of land disturbing construction activity and final site stabilization.

***Post-development land use condition*** means the extent and distribution of land cover types, anticipated to occur under conditions of full development or redevelopment that will influence runoff and infiltration.

***Pre-development condition*** means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

***Pre-treatment*** is the practice of reducing pollutants in stormwater before discharging the stormwater to another pollution control structure.

***Preventive action limit*** has the meaning in s. NR 140.05(17), Wisconsin Administrative Code.

***Protective area*** means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that it is the greatest of the widths as listed in Sec. 20-312(f), as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface.

***Redevelopment*** means areas where development is replacing older development.

***Residential land development*** means development that

is created to house people, including the residential dwellings as well as all affected portions of the development including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single-family, multi-family, apartment and trailer parks.

***Responsible party*** means any person holding fee title to the property or other entity contracted or obligated by other agreement to implement and maintain post-construction stormwater BMPs, or other requirements of this ordinance.

***Runoff*** means stormwater or precipitation including rain, snow, or ice melt or similar water that moves on the land surface via sheet or channelized flow.

***Runoff Curve Number or RCNs*** means an index that represents the combination of: a hydrologic soil group, land use, land cover, impervious area, interception storage, surface storage, and antecedent moisture conditions. RCNs convert mass rainfall into mass runoff. The Natural Resources Conservation Service of the USDA defines RCNs in TR-55.

***Sediment*** means settleable soil, rock fragments and other solids carried in runoff.

***Separate storm sewer*** means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels, or storm drains, which meets all of the following criteria:

(a) Is designed or used for collecting water or conveying runoff.

(b) Is not part of a combined sewer system.

(c) Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

(d) Discharges directly or indirectly to waters of the state.

***Silviculture activity*** means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

***Site*** means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application or has occurred.

***Stop work order*** means an order issued by the City of Appleton that requires all construction activity on the site be stopped.

***Stormwater conveyance system*** means any method employed to carry stormwater runoff within and from a land development or redevelopment activity to the waters of the state. Examples of methods include: swales, channels, and storm sewers.

***Stormwater management measure*** means structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes and/or peak flow discharge rates.

***Stormwater management plan*** means a comprehensive plan provided by the land developer, land owner or permit holder that identifies the measure to be taken to reduce the discharge of pollutants from stormwater, and control the peak flow and volume of runoff after the site has undergone final stabilization, following completion of construction activity.

***Stormwater management system plan*** is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

***Targeted performance standard*** means a performance standard that applies in a specific area that requires additional practices to meet water quality standards.

***Technical standard*** means a document that specifies design, predicted performance, and operation and maintenance specifications for a material, device, or method

***Top of the channel*** means an edge or point on the landscape landward from the ordinary high water mark of a surface water of the state, where the slope of the land begins to be less than twelve percent (12%) continually for at least fifty (50) feet. If the slope of the land is 12 percent (12%) or less continually for the initial fifty (50) feet landward from the ordinary high water mark, the top of the channel is the ordinary high water mark.

***Total maximum daily load or TMDL*** means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.

***TP*** means total phosphorus.

***TP-40*** means Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.

***TR-55*** means the United States Department of Agriculture, Natural Resources Conservation Services (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986, which is incorporated by reference for this chapter.

***Transportation facility*** means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail, and also includes any other public work for transportation purposes such as harbor improvements under §85.095(1)(b), Wis. Stat. "Transportation Facility" does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to §281.33, Wis. Stat.

***TSS*** means total suspended solids.

***Type II distribution*** means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973".

***Waters of the state*** has the meaning in §283.01(20), Wis. Stat.

***WDNR*** means the Wisconsin Department of Natural Resources.

***WPDES permit*** means a Wisconsin pollutant discharge elimination system permit issued under Ch. 283, Wis. Stat.

***Wetland functional value*** means the type, quality, and significance of the ecological and cultural benefits provided by wetland resources, such as: flood storage, water quality protection, groundwater recharge and discharge, shoreline protection, fish and wildlife habitat, floral diversity, aesthetics, recreation and education.
(Ord 188-03, §1, 10-21-03; Ord 66-10, §1, 4-13-10; Ord 156-11, §1, 1-1-12; Ord 42-16, §1, 5-1-16)

**Secs. 20-305 – 20-310. Reserved.**

## DIVISION 2. STORMWATER MANAGEMENT

### Sec. 20-311. Applicability and jurisdiction.

(a) ***Applicability.*** This ordinance applies to all post-construction land development, redevelopment, and in-filling sites with one (1) acre or more of land disturbing construction activities, except:

(1) A post-construction site with less than ten percent (10%) connected imperviousness of the total area based on area of land disturbance, provided the cumulative area of all parking lots, roads, and rooftops is less than one (1) acre. However, the exemption of this paragraph does not include exemption from the protective area standards of this ordinance.

(2) Agricultural facilities and practices.

(3) Nonpoint discharges from silviculture activities.

(4) Underground utility construction such as water, sewer, and fiberoptic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.

Notwithstanding these applicability requirements, this ordinance applies to any post-construction site of any size that, in the opinion of the City of Appleton, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(b) ***Jurisdiction.*** This ordinance applies to post-construction land development and redevelopment sites within the boundaries of the City of Appleton and to all lands located within three (3) miles of the corporate limits pursuant to the City's extraterritorial plat approval jurisdiction as set forth in §236.45(2), Wis. Stat., even if plat approval is not involved.

(c) ***County and town ordinances.*** This ordinance supercedes any county or town stormwater management ordinance for lands annexed to the City after the effective date of the county or town ordinance, except when the county or town ordinance is more restrictive than this ordinance; then the more restrictive provisions set forth in the county or town ordinance shall become part of this ordinance and apply to the annexed lands. In such cases, the City may grant a variance from the more restrictive

requirements, provided that the criteria for a variance as set forth in the county or town ordinance is met.

(d) ***State agency.*** This ordinance is not applicable to activities conducted by a state agency, as defined under §227.01(1), Wis. Stat., and the office of the district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under §281.33(2), Wis. Stat.

(e) ***Waivers.*** Requests to waive the stormwater management plan requirements shall be submitted to the City of Appleton for approval. Written waivers may be granted administratively by the City for stormwater requirements that are required only by the City if it is demonstrated to the satisfaction of the City that it is reasonable to expect that the objectives of this ordinance will be met by the proposed post-construction land development and redevelopment activity without a stormwater management plan or portion thereof.

(f) ***Applicability of maximum extent practicable.*** Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the City's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.
(Ord 188-03, §1, 10-21-03; Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16)

**Sec. 20-312. Performance standards.**

Unless otherwise provided for in this ordinance, all post-construction land development, redevelopment, and in-filling activities subject to this ordinance shall establish on-site management practices to control the peak flow rates of stormwater discharged from the site, the quality of the discharged stormwater, and the volume of the discharged stormwater as described in this ordinance. Technical standards identified, developed, or disseminated by the WDNR under subchapter V of Chapter NR 151, Wisconsin Administrative Code, shall be used. Where technical standards have not been identified or developed by the WDNR, other technical standards may be used provided that the methods have been approved by the City of Appleton. The responsible party shall implement a post-construction stormwater management plan that incorporates the requirements of this section.

Exceptions to these standards are listed in Sec. 20-312(l) of this ordinance.

(a) ***Maintenance of effort***. For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this ordinance, whichever is more stringent.

(b) ***Off-site drainage***. When designing best management practices for (c), (d) and (e) of this section, runoff draining to the best management practices from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.

(c) ***Peak discharge***

(1) The proposed post-construction land use shall not increase peak flow rates of stormwater runoff from that which would have resulted from the same design storm occurring over the site with the land in its pre-development, woodland condition, as defined in Table 1 of this ordinance for storms of twenty-four (24) hour duration and recurrence intervals of one (1), two (2), five (5), ten (10), and one hundred (100) years. Appropriate curve numbers, as described in TR-55 and weighted based on the proposed land cover, shall be used in TR-55 calculations. The composite RCNs as defined in TR-55 should not be used.

Table 1
Maximum Pre-Development Runoff Curve Numbers

| Runoff Curve Number | Hydrologic Soil Group | | | |
|---|---|---|---|---|
| | A | B | C | D |
| Woodland | 30 | 55 | 70 | 77 |
| Grassland | 39 | 61 | 71 | 78 |
| Cropland | 55 | 69 | 78 | 83 |

Where the pre-development condition is a combination of the Table 1 land uses, the runoff curve number shall be weighted based on area of land cover.

(2) All stormwater conveyance systems within the post-construction site shall be designed to completely contain the peak storm flows as described herein. Calculations for determining peak flows for conveyance

system sizing shall use RCNs based on the existing or future proposed land use for off-site areas (whichever results in the highest peak flows), and the proposed land use for on-site areas.

a. For open channel conveyance systems the peak flow from the 100-year, 24-hour storm shall be completely contained within the channel bottom and banks.

b. For storm sewer conveyance systems the peak flow from the 5-year storm shall be completely contained within the storm sewers with no surcharging.

c. For storms greater than the five- (5-) year event, and up to the 100-year, 24-hour event, conveyance of flow to the appropriate waters of the state shall be within existing or proposed street right-of-ways or recorded drainage easements. In no case shall the depth of water exceed twelve (12) inches at the outer edge of pavement or six (6) inches at the road crown, whichever is less.

d. The 100-year storm runoff flow path outside of the storm sewer conveyance system must not impact structural improvements on property.

e. Existing flow onto the site cannot be restricted or modified to impact adjacent properties without a written agreement between property owners.

(3) Determination of peak flow rates and volume of runoff for purposes of meeting the requirements of Sec. 20-312(c)(1) of this ordinance shall be computed by procedures based on the principals and procedures described in TR-55. Other proposed calculation methods must have prior written approval of the City of Appleton.

(4) The rainfall distributions for the storm events shall be NOAA Atlas 14 MSE4, unless otherwise approved by the City of Appleton. On a case-by-case basis, the City of Appleton may allow the use of TP-40 precipitation depths and the Type II distribution.

(5) Existing wetlands shall not be incorporated in the proposed stormwater management practice for peak flow control. Peak flow shall be managed prior to discharge to an existing wetland. Should any changes to natural wetlands be proposed, the impact of the proposal on wetland functional values shall be assessed and significant changes to wetland functional values shall be avoided (as defined by s. NR 103, Wisconsin Administrative Code).

(6) Peak stormwater discharge reductions do not apply for a site meeting any one of these requirements:

a. Redevelopment post-construction sites less than five (5) acres in size.

b. In-fill development areas less than five (5) acres in size.

c. Sites that directly discharge to the Fox River without flowing over or through a municipally owned separate storm sewer or stormwater conveyance system.

(d) ***Stormwater discharge quality.*** Unless otherwise provided for in this ordinance, all post-construction land development and redevelopment activities subject to this ordinance shall establish on-site management practices to control the quality of stormwater discharged from the post-construction site. On-site management practices shall be used to meet the following minimum standards:

(1) *Total suspended solids (TSS).* BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:

a. For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by eighty percent (80%), based on the average annual rainfall, as compared to no runoff management controls.

b. For redevelopment less than five (5) acres of disturbed land, by design, reduce to the maximum extent practicable, the total suspended solids load by forty percent (40%), based upon the average annual rainfall, as compared to no runoff management controls.

c. For redevelopment five (5) acres or greater of disturbed land, reduce to the maximum extent practicable, the total suspended solids load by eighty percent (80%), based on the average annual rainfall, as compared to no runoff

management controls.

d. For in-fill development by design, reduce to the maximum extent practicable, the total suspended solids load by eighty percent (80%), based on the average annual rainfall, as compared to no runoff management controls.

(2) *Total phosphorus (TP).* All new development, redevelopment, and infill sites shall calculate the total phosphorus load and the amount of phosphorus removed with the proposed on-site practices with an appropriate computer model. Both the load and the amount of removal shall be reported in the plan narrative and included in the computer model submitted for the project.

(3) Effectiveness of the stormwater management measures shall be evaluated using the latest version of the Source Loading and Management Model (WinSLAMM). Other models may be used with prior written approval of the City.

(4) Discharge of urban stormwater pollutants to natural wetlands without pre-treatment shall be avoided to the maximum extent practicable. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method such as the WDNR's Rapid Wetland Functional Value Assessment, or other methods acceptable to the City of Appleton and the WDNR. Changes to wetland functional values because of stormwater pollutant loads shall be avoided.

(Ord 66-10, §1, 4-13-10)

(e) ***Infiltration.*** Unless otherwise provided for in this ordinance, all post-construction land development and redevelopment sites subject to this ordinance shall design, install, and maintain on-site best management practices to infiltrate runoff in accordance with the following, to the maximum extent practicable.

(1) *Low imperviousness.* For development up to 40 percent (40%) connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent (90%) of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent (1%) of the post-construction site is required as an effective infiltration area.

(2) *Moderate imperviousness.* For development with more than forty percent (40%) and up to eighty percent (80%) connected imperviousness, such as medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least seventy-five percent (75%) of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent (2%) of the post-construction site is required as an effective infiltration area.

(3) *High imperviousness.* For development with more than eighty percent (80%) connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least sixty percent (60%) of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than two percent (2%) of the post-construction site is required as an effective infiltration area.

(4) *Pre-development.* The pre-development condition shall be as specified in Table 1.

(5) A model that calculates runoff volume, such as WinSLAMM, P8, or an equivalent methodology shall be used. Other models may be used with prior written approval of the City.

(6) Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial, and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance in accordance with Sec. 20-314 of this ordinance.

Pretreatment may include, but is not limited to, oil/grease separation, sedimentation,

biofiltration, filtration, treatment swales or filter strips. It is desirable to infiltrate the cleanest runoff to meet the infiltration standard. To achieve this, the design may propose greater infiltration of runoff from some sources such as roofs, and lesser from dirtier sources such as parking lots.

(7) For the purpose of this section, turf grass swales are not counted towards the one percent (1%) or two percent (2%) infiltration areas described in subsections (1) and (2).

(8) *Source areas.*

a. *Prohibitions*. Runoff from the following areas may not be infiltrated and may not qualify as contributing to meeting the requirements of this section unless demonstrated to meet the conditions identified in Sec. 20-312(e)(11):

i. Areas associated with a tier 1 industrial facility identified in s. NR 216.21(2)(a), Wisconsin Administrative Code, including storage, loading and parking. Rooftops may be infiltrated with the concurrence of the regulatory authority.

ii. Storage and loading areas of a tier 2 industrial facility identified in s. NR216.21(2)(b), Wisconsin Administrative Code.

NOTE TO USERS: Runoff from the employee and guest parking and rooftop areas of a tier 2 facility may be infiltrated but runoff from the parking area may require pretreatment.

iii. Fueling and vehicle maintenance areas. Runoff from rooftops and fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.

b. *Exemptions*. Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these source areas is optional:

i. Parking areas and access roads less than 5,000 square feet for commercial development.

ii. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the prohibitions under par a.

iii. Redevelopment post-construction sites, except as provided under Sec. 20-312(a), Maintenance of effort.

iv. In-fill development areas less than five (5) acres.

v. Roads on commercial, industrial and institutional land uses, and arterial residential roads.

(9) *Location of practices.*

a. *Prohibitions*. Infiltration practices may not be located in the following areas:

i. Areas within 1,000 feet upgradient or within 100 feet downgradient of direct conduits to groundwater.

ii. Areas within 400 feet of a community water system well as specified in s. NR 811.16(4), Wisconsin Administrative Code or within the separation distances listed in s. NR 812.08, Wisconsin Administrative Code for any private well or non-community well for runoff infiltrated from commercial, including multi-family residential, industrial and institutional land uses, or regional devices for one- and two-family residential development.

iii. Areas where contaminants of concern, as defined in s. NR 720.03 (2), Wisconsin Administrative Code, are present in the soil through which infiltration will occur.

b. *Separation distances*.

i. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock

are in accordance with Table 2.

Table 2
Separation Distances and Soil Characteristics

| Source Area | Separation Distance | Soil Characteristics |
|---|---|---|
| Industrial, Commercial, Institutional Parking Lots and Roads | 5 feet or more | Filtering layer |
| Residential Arterial Roads | 5 feet or more | Filtering layer |
| Roofs Draining to Subsurface Infiltration Practices | 1 foot or more | Native or Engineered soil with particles finer than coarse sand |
| Roofs Draining to Surface Infiltration Practices | Not applicable | Not applicable |
| All Other Impervious Source Areas | 3 feet or more | Filtering layer |

ii. Notwithstanding par. b., applicable requirements for injection wells classified under ch. NR 815, Wisconsin Administrative Code shall be followed.

c. *Infiltration rate exemptions*. Infiltration practices located in the following areas may be credited toward meeting the requirements under the following conditions, but the decision to infiltrate under these conditions is at the Developer's option:

i. Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.

ii. Where the least permeable soil horizon to five (5) feet below the proposed bottom of the infiltration system using the U.S. Department of Agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.

(10) *Alternate use*. Where alternate uses of runoff are employed, such as for toilet flushing, laundry, or irrigation or storage on green roofs where an equivalent portion of the runoff is captured permanently by rooftop vegetation, such alternate use shall be given equal credit toward the infiltration volume required by this section.

(11) *Groundwater standards.*

a. Infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with s. NR 140, Wisconsin Administrative Code. However, if site-specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP shall not be installed or shall be modified to prevent infiltration to the maximum extent practicable.

b. Notwithstanding paragraph (a), the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

(f) ***Protective areas.*** Protective area means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the widths described below, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section, protective area does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.

(1) Protective areas are:

a. For outstanding resource waters and exceptional resource waters, seventy-five (75) feet.

b. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, fifty (50) feet.

c. For lakes, 50 feet.

d. For wetlands not subject to par. e. or f.,

50 feet.

e. For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.

f. For less susceptible wetlands, ten percent (10%) of the average wetland width, but no less than ten (10) feet nor more than thirty (30) feet. Less susceptible wetlands include: degraded wetland dominated by invasive species such as reed canary grass; cultivated hydric soils, and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.

g. In pars. d. to f., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03, Wisconsin Administrative Code.

h. Wetland boundary delineation shall be made in accordance with s. NR 103.08(1m), Wisconsin Administrative Code. This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.

i. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

j. Notwithstanding pars. a. to i., the greatest protective area width shall apply where rivers, streams, lakes, and wetlands are contiguous.

(2) This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to sub. 5.

(3) The following requirements shall be met:

a. Impervious surfaces shall be kept out of the protective area entirely or to the maximum extent practicable. The stormwater management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.

b. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining native vegetative cover of seventy percent (70%) or greater shall be established and maintained. The self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

c. Best management practices such as filter strips, treatment swales, or wet detention basins, that are designed to control pollutants from nonpoint sources may be located in the protective area.

(4) A protective area established or created after the adoption date of this ordinance shall not be eliminated or reduced, except as allowed in subd. 5.b, c, or d below.

(5) Protective areas do not apply to:

a. Redevelopment post-construction sites, provided the minimum requirements within subd. 4 above are satisfied.

b. Structures that cross or access surface waters such as boat landings, bridges and culverts.

c. Structures constructed in accordance with §59.692(1v), Wis. Stat.

d. Post-construction sites from which

runoff does not enter the surface water, including wetlands, without first being treated by a BMP, except to the extent that vegetative ground cover is necessary to maintain bank stability.

e. Infill development less than five (5) acres.

(Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16)

(g) ***Fueling and vehicle maintenance areas.*** Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed, and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen. A combination of the following BMPs may be used: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

(1) This ordinance applies to:

a. New fueling and vehicle maintenance areas approved after the effective date of this ordinance.

b. Any modifications to existing fueling and vehicle maintenance areas regardless of the size of the disturbed area. BMPs installed as part of a site modification shall, to the maximum extent practicable, be designed and operated to treat all stormwater leaving the site so that the stormwater contains no visible petroleum sheen.

(2) A stormwater management plan per Sec. 20-313 of this ordinance, a maintenance agreement per Sec. 20-314 of this ordinance and a stormwater permit per Sec. 20-321 of this ordinance are required.

(Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16)

(h) ***General considerations for stormwater management measures***. The following considerations shall be observed in on-site and off-site runoff management.

(1) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.

(2) Overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(3) Overland flow paths from adjoining properties to an offsite facility must be maintained.

(4) Low impact development techniques and green infrastructure should be included to the extent possible. These techniques include but are not limited to: increasing the time of concentration by lengthening the flow path and increasing the roughness of the flow path, using native, deep rooted vegetation instead of turf grasses and deep tilling onsite compacted soil.

(Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16)

(i) ***Location and regional treatment option.***

(1) The BMPs may be located on-site or off-site as part of a regional stormwater device, practice or system, but shall be installed in accordance with s. NR 151.003 Wisconsin Administrative Code.

(2) Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this ordinance. Post-construction BMPs may be located in non-navigable surface waters.

(3) Post-construction runoff shall meet the post-construction performance standards prior to entering navigable surface water.

a. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.

b. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as s. NR 103, Wisconsin Administrative Code and Chapter 30, Wis. Stat.

(4) The City of Appleton may approve off-site management measures provided that all of the following conditions are met:

a. The post-construction runoff is covered by a stormwater management system

plan that is approved by the City of Appleton and that contains management requirements consistent with the purpose and intent of this ordinance.

b. The off-site facility meets all of the following conditions:

i. The facility is in place.

ii. The facility is designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.

iii. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

iv. Permittee must demonstrate that the proposed post-construction land development or redevelopment activity has received permission to use the off-site facility.

v. Permittee must also demonstrate the flow path to the off-site facility will not result in negative impacts to structural improvements on the property.

vi. Permittee must provide easements of all overland flow paths up to and including the overland flow path of the 100-year storm

(5) Where a regional treatment option exists such that the City of Appleton exempts the applicant from all or part of the minimum on-site stormwater management requirements, the applicant may be required to pay a one-time fee in an amount determined by the City of Appleton. In determining the fee for post-construction runoff, the City may consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

(6) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs, is subject to this ordinance.

(j) ***Additional requirements.*** The City of Appleton may establish stormwater management requirements more stringent than those set forth in this ordinance if the City determines that the requirements are needed to control stormwater quantity or control flooding, comply with federally approved total maximum daily load requirements, or control pollutants associated with existing development or redevelopment.

(k) ***Swale treatment for transportation facilities.***

(1) *Applicability.* Except as provided in Sec. 20-312(h)(2) of this ordinance, transportation facilities that use swales for runoff conveyance, pollutant removal and infiltration meet the stormwater discharge quality requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:

a. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams. It is preferred that tall and dense vegetation be maintained within the swale because of its greater effectiveness at enhancing runoff pollutant removal.

b. Swales shall comply with sections V.F. (Velocity and Depth) and V.G. (Sale Geometry Criteria) with a swale treatment length as long as that specified in section V.C. (Pre-Treatment) of the Wisconsin Department of Natural Resources technical standard 1005 “Vegetated Infiltration Swales”, dated May 2007, or a superseding document. Transportation facility swale treatment does not have to comply with other sections of technical standard 1005.

(2) *Other requirements.*

a. The City of Appleton may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with average daily traffic of vehicles greater than two thousand five hundred (2,500) per day and where the initial surface water of the state that the runoff directly enters is any of the following:

i. An outstanding resource water.

ii. An exceptional resource water.

iii. Waters listed in s. 303(d) of the Federal Clean Water Act that are identified as impaired in whole or in part, because of nonpoint source impacts.

iv. Waters where targeted performance standards are developed under s. NR 151.004, Wisconsin Administrative Code, to meet water quality standards.

b. The transportation facility authority shall contact the City to determine if additional BMPs beyond a water quality swale are needed under this subsection.

(Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16)

(l) Innovative stormwater management systems that do not meet Sec. 20-312(c), (d) or (e) of this ordinance must be reviewed and **accepted** by the City before installation.

(Ord 188-03, §1, 10-21-03; Ord 42-16, §1, 5-1-16)

**Sec. 20-313. Stormwater management plans.**

(a) ***Plan requirements.***

(1) The stormwater management plan required under Sec. 20-321 of this ordinance shall contain any such information the City of Appleton may need to evaluate the characteristics of the area affected by land development and redevelopment activities, the potential impacts of the proposed activity upon the quality and quantity of stormwater discharges, the potential impacts upon water resources and drainage systems and the effectiveness and acceptability of proposed stormwater management measures in meeting the performance standards set forth in this ordinance.

(2) All initial and final site investigations, plans, designs, computations and drawings for stormwater management measures and plans submitted for review shall be stamped by a professional engineer registered in the State of Wisconsin and be prepared in accordance with accepted engineering practice and in accordance with criteria set forth by the City of Appleton.

(Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16)

(b) ***Minimum content.*** The stormwater management plan shall contain at a minimum the following information:

(1) Name, address and telephone number for the following and their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of stormwater management practices; and person(s) responsible for maintenance of stormwater management practices prior to the transfer, if any, of maintenance responsibility to another party.

(2) A proper legal description of the property proposed to be developed in Outagamie County Coordinate System and referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.

(3) Pre-development site conditions, including:

a. One or more site maps of current site conditions at a scale of not less than one (1) inch equal one hundred (100) feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all stormwater conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100-year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to s. NR 811.16, Wisconsin Administrative Code.

b. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).

(4) Post-construction site conditions, including:

a. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.

b. Explanation of any restrictions on stormwater management measures in the development area imposed by wellhead protection plans and ordinances.

c. One or more site maps at a scale of not less than one (1) inch equals one hundred (100) feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures and pavement; post-construction topographic contours of the site; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all stormwater conveyance sections; location and type of all stormwater management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site.

d. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).

e. Results of investigations of soil and groundwater required for the placement and design of stormwater management measures.

f. Detailed drawings including cross-sections and profiles of all permanent stormwater conveyance and treatment practices.

(5) A description and installation schedule for the stormwater management practices needed to meet the performance standards in Sec. 20-312 of this ordinance.

(6) A maintenance plan developed for the life of each stormwater management practice including the required maintenance activities and maintenance activity schedule.

(7) Other information requested in writing by the City of Appleton to determine compliance of the proposed stormwater management measures with the provisions of this ordinance.

(c) ***Alternate requirements.*** The City of Appleton may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under Secs. 20-312(c), (d) or (e) of this ordinance.

(d) ***Modifications.*** When a change in land use or stormwater management practice occurs at a site with an approved stormwater management plan, a modified stormwater management plan must be submitted to the City for review and approval before those changes in practice occur. Plan modifications shall be modeled in the latest version of WinSLAMM unless otherwise approved by the City.
(Ord 188-03, §1, 10-21-03; Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16)

**Sec. 20-314. Maintenance agreement.**

(a) ***Maintenance agreement required.*** The maintenance agreement required for stormwater management practices under Sec. 20-321(b) of this ordinance shall be an agreement between the City of Appleton and the responsible party to provide for perpetual maintenance of stormwater practices. The agreement shall be recorded with the appropriate (Outagamie, Winnebago, or Calumet) County Register of Deeds, as a property deed restriction so that it is binding upon all subsequent owners of land served by the stormwater management practices.
(Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16)

(b) ***Agreement provisions.*** The responsible party shall maintain stormwater management practices in

accordance with the stormwater practice maintenance provisions contained in the approved stormwater management plan submitted under Sec. 20-321(b) of this ordinance. This maintenance agreement includes:

(1) Identification of the stormwater facilities and designation of the drainage area served by the facilities.

(2) A schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan as required under Sec. 20-321 of this ordinance.

(3) Identification of the responsible party(ies), organization or city, county, town or village responsible for long-term maintenance of the stormwater management practices identified in the stormwater management plan as required under Sec. 20-321 of this ordinance.

(4) Requirement that the responsible party(ies), organization(s), or city, county, town or village shall maintain stormwater management practices in accordance with the schedule included in Sec. 20-314(b)(2) of this ordinance.

(5) Authorization for the City of Appleton to access the property to conduct inspections of stormwater practices as necessary to ascertain that the practices are being maintained and operated in accordance with the approved stormwater management plan. The City of Appleton shall maintain public records of the results of the site inspections, shall inform the responsible party for maintenance of the inspection results and shall specifically indicate any corrective actions required to bring the stormwater management practice into proper working condition and a reasonable time frame during which the corrective action must be taken.

(6) Authorization for the City of Appleton to perform the corrected actions identified in the inspection report if the responsible party does not make the required corrections in the specified time period. The City of Appleton shall charge the responsible party(ies) identified in the maintenance agreement for the cost of such work and shall place a lien on the property by the City of Appleton, which may be collected as special charges pursuant to subchapter VII, §66(16).

(c) ***Modification of agreement.*** This maintenance agreement may be modified by mutual agreement of the responsible party and the City of Appleton. The modification date shall be the date the modified maintenance agreement is recorded with the appropriate (Outagamie, Winnebago, or Calumet) County Register of Deeds, as a property deed restriction so that the modified agreement is binding upon all subsequent owners of the land served by the stormwater management practices.

The maintenance agreement shall be modified when there are changes in land use or stormwater management practices at the site. The modified plan shall be submitted and approved by the City before changes in practices occur. (Ord 66-10, §1, 4-13-10)

(d) ***Termination of agreement.*** The maintenance agreement shall be terminated at such time that responsibility for maintenance of the stormwater management practice is legally transferred to the City of Appleton or agency acceptable to the City of Appleton, through a written, binding agreement. The termination date of the maintenance agreement required under Sec. 20-314(a) of this ordinance shall be the date upon which the legal transfer of maintenance responsibility to the City of Appleton or agency is made effective.
(Ord 188-03, §1, 10-21-03; Ord 66-10, §1, 4-13-10; Ord 42-16, §1, 5-1-16)

**Secs. 20-315 – 20-320. Reserved.**

## DIVISION 3. PERMITTING AND FEES

### Sec. 20-321. Permitting requirements, procedures, and fees.

(a) ***Permit required.*** No responsible party may undertake a land disturbing construction activity except One- and Two-family residential lots, without receiving a post-construction runoff permit from the City of Appleton prior to commencing the proposed activity.

(b) ***Permit application and fee.*** Unless specifically excluded by this ordinance, any responsible party desiring a permit (permit holder) shall submit to the City of Appleton a permit application made on a form provided by the City of Appleton for that purpose.

(1) Unless otherwise excepted by this ordinance, a permit application must be accompanied by a stormwater management plan, grading plan, utility plan, landscape plan, non-refundable permit review fee and an operation and maintenance plan and agreement as set forth in Table 3. The initial submittal and the final approved plan shall be stamped by an engineer licensed in the State of Wisconsin in a hard copy format.

Table 3

| Land Development Activity | Permit | Stormwater Mgmnt Plan | Grading & Drainage Plan | Main-tenance Agrm |
|---|---|---|---|---|
| Agricultural Use | -- | -- | -- | -- |
| Non-Residential | X | X | X | X |
| 1 & 2 Family Residential on 1 acre or greater lots | X | X | X | -- |
| Multi-Family Residential | X | X | X | X |
| Subdivision Development | X | X | X | X |

(2) The stormwater management plan shall be prepared to meet the requirements of Sec. 20-313 of this ordinance and the maintenance agreement shall be prepared to meet the requirements of Sec. 20-314 of this ordinance.

(3) Plan revisions occurring after initial plan approval shall be submitted for review with an application, applicable changes to drawings, calculations, and the Operation and Maintenance Agreement. Fees shall be per (4) below.

(4) Fees for the above-noted permits will include a non-refundable one hundred dollar ($100) application fee and will be the actual costs incurred by the City. The application fee shall be credited toward the actual costs incurred by the City. Fees shall be payable within thirty (30) days of receipt of an invoice from the City. An invoice will be sent any time an applicant fails to resubmit a plan revision for ninety (90) days or more.

(Ord 66-10, §1, 4-13-10; Ord 157-11, §1, 1-1-12; Ord 42-16, §1, 5-1-16)

(c) ***Review and approval of permit application.*** The City of Appleton will review any complete permit application that is submitted with the required fee. The following procedure will be used:

(1) For a Major Stormwater Management Plan, within thirty (30) business days of the receipt of a complete permit application, including all documents as required by Sec. 20-321(b)(1) of this ordinance, the City of Appleton shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved. The City of Appleton shall base the decision on requirements set forth in Secs. 20-312, 20-313 and 20-314 of this ordinance.

(2) For a Minor Stormwater Management Plan, within fifteen (15) business days of receipt of a complete permit application, including all documents as required by Sec. 20-321(b)(1) of this ordinance, the City of Appleton shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved. The City of Appleton shall base the decision on requirements set forth in Secs. 20-312, 20-313 and 20-314 of this ordinance.

(3) If the stormwater permit application, stormwater management plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices are paid, the City of Appleton shall issue the permit.

(4) If the stormwater permit application, stormwater management plan or maintenance agreement are disapproved, the applicant may revise the stormwater management plan or agreement, or may appeal the decision of the City of Appleton as provided for in Sec. 20-327 of this ordinance.

(5) If additional information is submitted, the

City of Appleton shall have thirty (30) business days from the date the additional information is received for a Major Stormwater Management Plan and fifteen (15) business days for a Minor Stormwater Management Plan to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

(6) Failure by the City of Appleton to inform the permit applicant of a decision within the timelines listed above shall be deemed to mean approval of the submittal and applicant may proceed as if permit has been issued.

(Ord 157-11, §1, 1-1-12; Ord 42-16, §1, 5-1-16)

(d) ***Stormwater practice installation and maintenance performance security.*** The City of Appleton may, at its discretion, require the submittal of a cash escrow, letter of credit, or performance security prior to issuance of the permit to ensure that the stormwater practices are installed and maintained by the responsible party as required by the stormwater management plan. The amount of the installation performance security shall be determined by the City of Appleton, not to exceed the total estimated construction cost of the stormwater management practices approved under the permit unless otherwise specified in the permit.

The amount of the maintenance performance security shall be determined by the City of Appleton, not to exceed ten- (10-) years of the maintenance costs estimated in the stormwater plan. The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan.

Conditions for the release of performance security are as follows:

(1) The installation performance security shall be released in full only upon submission of "as built plans" and written certification by the design engineer that the stormwater practice(s) were installed and function as intended in accordance with the approved plan and other applicable provisions of this ordinance. The City of Appleton may make provisions for a partial pro-rata release of the performance security based on the completion of various development stages including the final inspection of landscaping material.

(2) The maintenance performance security, minus any costs incurred by the City of Appleton to conduct required maintenance, design, engineering, preparation, checking and review of designs, plans and specifications; supervision and inspection to ensure that construction is in compliance with applicable plans, specifications, regulations and ordinances; and legal, administrative and fiscal work undertaken to assure and implement such compliance, shall be released at such time that the responsibility for practice maintenance is passed on to another private entity, via an approved maintenance agreement, or to the City of Appleton.

(e) ***Permit conditions.*** All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The City of Appleton may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the City of Appleton to suspend or revoke this permit may be appealed in accordance with Sec. 20-327 of this ordinance.

(1) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state and local laws and regulations.

(2) The responsible party shall design, install, and maintain all structural and nonstructural stormwater management measures in accordance with the approved stormwater management plan, maintenance agreement, and this permit.

(3) The responsible party shall notify the City of Appleton at least three (3) business days before commencing any work in conjunction with the stormwater management plan, and within five (5) business days upon completion of the stormwater management practices.

If required as a special condition, the permit holder shall make additional notification according to a schedule set forth by the City of Appleton so that practice installations can be inspected during construction.

(4) Completed stormwater management practices must pass a final inspection to determine if they are in accordance with the approved stormwater management plan and ordinance. The inspection must be made by the City of Appleton, or other competent professionals. The City of Appleton shall notify the permit holder in writing of any changes required in such practices to bring them into compliance

with the conditions of this permit. The responsible party is further required to submit an as-built plan and a certificate of completion, stating the completion of the permitted work is in accordance with the stormwater management plan, City of Appleton, state and federal requirements. The certificate must be signed by the design engineer.

(5) The responsible party shall notify the City of any significant modifications it intends to make to an approved stormwater management plan. The City of Appleton may require that the proposed modifications be submitted for approval prior to incorporation into the stormwater management plan and execution by the responsible party.

(6) The responsible party shall maintain all stormwater management practices specified in the approved stormwater management plan until the practices either become the responsibility of the City of Appleton, or are transferred to a subsequent responsible party as specified in the approved maintenance agreement.

(7) The responsible party authorizes the City of Appleton to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to placing associated costs upon the tax roll as a special lien against the property which may be collected as special charges pursuant to §66.0627, Wis. Stat., by the City of Appleton or to charging such costs against the letter of credit or cash bond posted for the project.

(8) If so directed by the City of Appleton, the responsible party shall repair at the permit holder's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.

(9) The responsible party shall permit property access to the City of Appleton or its designee for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.

(10) Where necessary, it shall be the responsibility of the permit holder to obtain any appropriate easements or other necessary property/interests with affected property owners concerning the prevention of endangerment to property or public safety. Issuance of this permit does not create or affect any such rights.

(11) The owner is subject to the enforceable actions detailed in Sec. 20-326 of this ordinance if the responsible party fails to comply with the terms of this permit.

(Ord 66-10, §1, 4-13-10; 42-16, §1, 5-1-16)

(f) ***Permit duration.*** The responsible party must start the permit activities within one (1) year of the date the permit is issued. An extension of one (1) year may be granted by the Director, provided a written request is submitted to the Director prior to the expiration date for the initial permit. If permit activities are not started, then a new permit application and fee may be required.
(Ord 66-10, §1, 4-13-10)

(g) ***Fee in lieu of on-site stormwater management practices.*** Where the City of Appleton waives all or part of the minimum on-site stormwater management requirements under Sec. 20-313(c) of this ordinance, or where the waiver is based on the provision of adequate stormwater facilities provided by the City of Appleton downstream of the proposed development or redevelopment, as provided for under Sec. 20-312 of this ordinance, the applicant shall be required to pay a fee in an amount as determined by the City of Appleton pursuant to §66.0617, Wis. Stat. and any other applicable law.
(Ord 188-03, §1, 10-21-03; Ord 42-16, §1, 5-1-16)

**Secs. 20-322 – 20-325. Reserved.**

## DIVISION 4. ENFORCEMENT AND APPEALS

### Sec. 20-326. Enforcement and penalties.

(a) Any land disturbing construction activity or any post-construction runoff initiated after the effective date of this ordinance by any person, firm, association or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.

(b) The City of Appleton shall notify the responsible party or owner by certified mail of any non-complying land disturbing construction activity or post construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action and additional enforcement action, which may be taken.

(c) Upon receipt of written notification from the City of Appleton, the responsible party or owner shall correct work that does not comply with the stormwater management plan or other provisions of this permit. The responsible party or owner shall make corrections as necessary to meet the specifications and schedule set forth by the City of Appleton in the notice.

(d) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the City of Appleton may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the City of Appleton plus interest and legal costs shall be billed to the responsible party or owner.

(e) The City of Appleton is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request the Appleton City Attorney to obtain a cease and desist order.

(f) The City of Appleton may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.

(g) Any permit revocation, stop work order or cease and desist order shall remain in effect unless retracted by the City of Appleton or by a court of competent jurisdiction.

(h) The City of Appleton is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance to the Appleton City Attorney for the commencement of further legal proceedings.

(i) Any person, firm, association or corporation who does not comply with the provisions of this ordinance shall be subject to the general penalty provisions of the Appleton Municipal Code Sec. 1-16. Each day that the violation exists shall constitute a separate offense.

(j) Violations of this ordinance deemed to be a public nuisance shall be subject to abatement under Sec. 12-32 of the City of Appleton Municipal Code or compliance with this ordinance may be enforced by injunctional order in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctional proceedings.

(k) When the City of Appleton determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the stormwater management plan submitted and approved pursuant to Sec. 20-321 of this ordinance, or has failed to comply with schedules set forth in said stormwater management plan, the City of Appleton or a party designated by the City of Appleton may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City of Appleton shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any performance or maintenance security posted pursuant to Sec. 20-321 of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property.
(Ord 188-03, §, 10-21-03; Ord 42-16, §1, 5-1-16)

### Sec. 20-327. Appeals.

(a) ***Appeals.*** The Utilities Committee of the Appleton Common Council shall hear and recommend to Council appeals where it is alleged that there is error in any order, decision or determination made by the City of Appleton in administering this ordinance. The Committee shall use the rules, procedures, duties and powers authorized by statute in hearing and recommending appeals.

Upon appeal, the Committee may recommend to Council relief from the provisions of this ordinance that are not contrary to the public interest or provisions of state regulations, and where owing to special conditions a literal enforcement of this ordinance will result in unnecessary hardship.

(b) ***Who may appeal.*** Appeals to the Utilities Committee of the City of Appleton may be taken by any aggrieved person or by an officer, department, board or bureau of the City of Appleton affected by any decision of the City of Appleton. Written appeals shall be filed with the City Clerk. The Utilities Committee will make a recommendation within forty-five (45) calendar days of filing of the appeal. If the Utilities Committee takes no action within forty-five (45) calendar days, the appeal will

automatically be sent to Council with a recommendation for approval. Either party may file a written request for a time extension with the City Clerk.
(Ord 188-03, §, 10-21-03; Ord 42-16, §1, 5-1-16)

**Secs. 20-328 – 20-330. Reserved.**

## DIVISION 5. SEVERABILITY

**Sec. 20-331. Severability.**

If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections or portion thereof of the ordinance which shall remain in full force and effect.
(Ord 188-03, §1, 10-21-03 ; Ord 42-16, §1, 5-1-16)

## DIVISION VI. EFFECTIVE DATE.

**Sec. 20-332. Effective date.**

This ordinance is in full force and effect on May 1, 2016.
(Ord 188-03, §1, 10-21-03; Ord 42-16, §1, 5-1-16)

## ARTICLE VII. ILLICIT DISCHARGES AND CONNECTIONS

### DIVISION 1. IN GENERAL

**Sec. 20-400. Purpose and intent.**

(a) The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of City of Appleton through the regulation of non-stormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this ordinance are:

(1) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.

(2) To prohibit illicit connections and discharges to the MS4.

(3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

(Ord 67-08, §1, 3-25-08)

**Sec. 20-401. Definitions.**

For the purposes of this ordinance, the following shall mean:

***Authorized enforcement agency***. City of Appleton Director of Public Works and/or designees thereof.

***Best Management Practices (BMPs)***. Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or other pollutants carried in runoff to waters of the state.

***Contaminated stormwater***. Stormwater that comes into contact with material handling equipment or activities, raw materials, intermediate products, final products, waste materials, byproducts or industrial machinery in the source areas listed in NR 216 (effective August 1, 2004).

***Department (DNR)***. The Wisconsin Department of Natural Resources.

***Discharge***. As defined in Wisconsin Statute 283 (November 1, 2005 or as subsequently amended), when used without qualification includes a discharge of any pollutant.

***Discharge of pollutants***. As defined in Wisconsin Statute 283 (November 1, 2005), means any addition of any pollutant to the waters of the state from any point source.

***Hazardous materials***. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

***Illicit discharge***. Any discharge to a municipal separate storm sewer system or waters of the state that is not composed entirely of stormwater except discharges authorized by a WPDES permit or other discharge not requiring a WPDES permit such as landscape irrigation, individual residential car washing, fire fighting, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, flows from riparian habitats and wetlands, and similar discharges.

***Illicit connections***. An illicit connection is defined as either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the MS4 or waters of the state including, but not limited to, any conveyances that allow any non-stormwater discharge including sewage, process wastewater, or wash water to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

(2) Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

***Industrial activity***. Activities subject to WPDES Industrial Permits per NR 216 (effective August 1, 2004) and Wisconsin Statute 283 (November 1, 2005).

***Municipality***. Any city, town, village, county, county utility district, town sanitary district, town utility district, school district or metropolitan sewage district, the Wisconsin Department of Transportation or any other public entity created pursuant to law and having authority

to collect, treat or dispose of sewage, industrial wastes, stormwater or other wastes.

***Municipal Separate Storm Sewer System (MS4)***. As defined in Wisconsin Administrative Code NR 216 (effective August 1, 2004), means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all the following criteria:

(1) Owned or operated by a municipality.

(2) Designed or used for collecting or conveying stormwater.

(3) Which is not a combined sewer conveying both sanitary and stormwater.

(4) Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

***Non-stormwater discharge***. Any discharge to the MS4 that is not composed entirely of stormwater.

***Owner***. Any person holding fee title, an easement or other interest in property.

***Outfall***. The point at which stormwater is discharged to waters of the state or to a storm sewer or to an adjacent municipality.

***Person***. An individual, owner, operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency.

***Pollutant***. As defined in Wisconsin Statute 283 (November 1, 2005), means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt, yard waste and industrial, municipal and agricultural waste discharged into water.

***Pollution***. As defined in Wisconsin Statute 283 (November 1, 2005), means any man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

***Pollution prevention.*** Taking measures to eliminate or reduce pollution.

***Premises***. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks.

***Stormwater***. Runoff from precipitation including rain, snow, ice melt or similar water that moves on the land surface.

***Stormwater Management Plan/Stormwater Pollution Prevention Plan***. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, MS4s, and/or waters of the State to the Maximum Extent Practicable.

***Wastewater***. Any water or other liquid, other than uncontaminated stormwater, discharged from a property.

***Watercourse***. A natural or artificial channel through which water flows. These channels include: all blue and dashed blue lines on the USGS quadrangle maps, all channels shown on the soils maps in the NRCS soils map for Outagamie, Winnebago and Calumet Counties, all channels identified on the site, and new channels that are created as part of a development. The term watercourse includes waters of the state as herein defined.

***Waters of the state***. As defined in Wisconsin Statute 283 (November 1, 2005), means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

***Wisconsin Pollutant Discharge Elimination System (WPDES) Stormwater Discharge Permit***. A Wisconsin pollutant discharge elimination system permit issued pursuant to Wisconsin Statute 283 (November 1, 2005).
(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)

**Sec. 20-402. Applicability.**

This ordinance shall apply to all pollutants, substances or wastewater entering the MS4 unless explicitly exempted by an authorized enforcement agency.
(Ord 67-08, §1, 3-25-08)

**Sec. 20-403. Responsibility for administration.**

The authorized enforcement agency and/or its agents shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

(Ord 67-08, §1, 3-25-08)

**Sec. 20-404. Compatibility with other regulations.**

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.
(Ord 67-08, §1, 3-25-08)

**Sec. 20-405. Severability.**

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.
(Ord 67-08, §1, 3-25-08)

**Sec. 20-406. Ultimate responsibility.**

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.
(Ord 67-08, §1, 3-25-08)

**Secs. 20-407 – 20-410. Reserved.**

**DIVISION 2. DISCHARGE PROHIBITIONS.**

**Sec. 20-411. Prohibition of illicit discharges.**

No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than stormwater.
(Ord 67-08, §1, 3-25-08)

**Sec. 20-412. Allowed discharges.**

(a) Water line flushing, irrigation, diverted stream flows, ground waters, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, springs, water from crawl space pumps, footing drains, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges.

(b) Discharges or flow from firefighting, and other discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

(c) Discharges associated with dye testing, provided verbal notification is given to the authorized enforcement agency and the Department of Natural Resources a minimum of three (3) days prior to the time of the test.

(d) Any non-stormwater discharge permitted under an WPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Wisconsin Department of Natural Resources. Any person subject to such an WPDES stormwater discharge permit shall comply with all provisions of such permit.
(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)

**Sec. 20-413. Prohibition of illicit connections.**

(a) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

(b) This prohibition includes, but is not limited to, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(c) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage or any other pollutant to the MS4, or allows such a connection to continue.
(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)

**Sec. 20-414. Watercourse protection.**

Every person owning property through which a

watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.
(Ord 67-08, §1, 3-25-08)

**Secs. 20-415 – 20-420. Reserved.**

## DIVISION 3. COMPLIANCE MONITORING

**Sec. 20-421. Right of entry: inspecting and sampling.**

(a) The authorized enforcement agency shall be permitted to enter and inspect any property subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

(1) If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

(2) Property operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records.

(3) The authorized enforcement agency shall have the right to set up on any property such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the property's stormwater discharge.

(4) The authorized enforcement agency has the right to require the discharger to install monitoring equipment as necessary. The property's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the property to be inspected, sampled or monitored shall be promptly removed by the operator at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing the authorized enforcement agency access to a property is a violation. A person who is the operator of a property commits an offense if the person denies the authorized enforcement agency reasonable access to the property for the purpose of conducting any activity authorized or required by this ordinance.

(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)

**Sec. 20-422. Special inspection warrant.**

If the authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect, sample or monitor as part of a routine inspection, sampling or monitoring program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a special inspection warrant per state statute §66.0119.
(Ord 67-08, §1, 3-25-08)

**Sec. 20-423. Requirement to prevent, control and reduce stormwater pollutants by the use of best management practices.**

The owner or operator of any activity, operation, or property which may cause or contribute to pollution or contamination of stormwater, the MS4, watercourses, or waters of the State shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or watercourses through the use of structural and non-structural BMPs. Further, any person responsible for a property or premise, that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid WPDES permit authorizing the discharge of stormwater associated with industrial activity, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a Stormwater Management Plan (SWMP)/Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance.
(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)

**Sec. 20-424. Notification of spills**

Notwithstanding other requirements of law, as soon as any person responsible for a property or operation, or responsible for emergency response for a property or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the MS4, or waters of the State, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized enforcement agency within seventy-two (72) hours of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least seven (7) years.

Failure to provide notification of a release as provided above is a violation of this ordinance.
(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)

**Secs. 20-425 – 20-430. Reserved.**

## DIVISION 4. VIOLATIONS, ENFORCEMENT AND PENALTIES

### Sec. 20-431. Violations.

(a) It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

(b) In the event the violation constitutes an immediate danger to public health, public safety or the environment the authorized enforcement agency is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation. The authorized enforcement agency is authorized to seek costs of the abatement as outlined in §20-440.

(c) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the authorized enforcement agency.

(d) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the authorized enforcement agency requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the authorized enforcement agency.
(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)

### Sec. 20-432. Warning notice.

When the authorized enforcement agency finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the authorized enforcement agency may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in the subsection shall limit the authority of the authorized enforcement agency to take action, including emergency action or any other enforcement action without first issuing a Warning Notice.
(Ord 67-08, §1, 3-25-08)

### Sec. 20-433. Notice of violation.

(a) Whenever the authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person.

(b) The Notice of Violation shall contain:

(1) The name and address of the alleged violator;

(2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;

(3) A statement specifying the nature of the violation;

(4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;

(5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

(6) A statement that the determination of violation may be appealed to the authorized enforcement agency by filing a written notice of appeal within three (3) days of service of notice of violation; and

(7) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or contractor and the expense thereof shall be charged to the violator.

(b) Such notice may require without limitation:

(1) The performance of monitoring, analyses, and reporting;

(2) The elimination of illicit connections or discharges;

(3) That violating discharges, practices, or

operations shall cease and desist;

(4) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(5) Payment of a fine to cover administrative and remediation costs; and

(6) The implementation of BMPs.

(Ord 67-08, §1, 3-25-08)

**Sec. 20-434. Suspension of MS4 access.**

(a) ***Reserved***.

(b) ***Emergency cease and desist orders.***

(1) When the authorized enforcement agency finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and/or that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the State which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the authorized enforcement agency may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

a. Immediately comply with all ordinance requirements; and

b. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

(c) Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the State, and/or endangerment to persons or to the environment, including immediate termination of a property's water supply, sewer connection, or other municipal utility services. The authorized enforcement agency may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the authorized enforcement agency that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the authorized enforcement agency within seventy-two (72) hours of receipt of the orders to cease and desist all violations.

(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)

**Sec. 20-435. Suspension due to illicit discharges in emergency situations.**

The authorized enforcement agency may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4, or to minimize danger to persons.

(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)

**Sec. 20-436. Suspension due to detection of illicit discharge.**

(a) Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration hearing and the violator shall have an opportunity for hearing under Wis. Stats. Ch. 68, except when termination is necessary to abate an imminent threat to the public health, safety, welfare or environment. The violator may have a hearing under Wis. Stats. Ch. 68, within ten (10) days of such emergency discontinuance.

(b) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

(Ord 67-08, §1, 3-25-08; Ord 55-15, §1, 6-23-15)

**Sec. 20-437. Prosecution and penalties.**

(a) Any person that has violated or continues to violate this ordinance shall be liable to prosecution to the fullest extent of the law. In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within the set time period specified by the

authorized agency, after the authorized enforcement agency has taken one or more of the actions described above, the authorized enforcement agency may impose a penalty not to exceed $1,000 for each day the violation remains unremedied after receipt of the notice of violation. For second and subsequent offenses, the penalty shall not exceed $5,000 per day.

(b) ***Prosecution of violation***. If the notice of violation is not complied with promptly, the authorized enforcement agency shall request the City Attorney to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation. Upon conviction the violator shall be fined as provided hereinbefore for each violation together with the costs of prosecution. Each day that a violation continues shall be deemed a separate offense.

(c) ***Abatement of violation***. The imposition of the penalties herein prescribed shall not preclude the City Attorney from instituting appropriate action to prevent, correct or abate a violation, or to stop an unlawful or illegal act.
(Ord 67-08, §1, 3-25-08)

**Sec. 20-438. Enforcement measures.**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, then representatives of the authorized enforcement agency are authorized to take any and all measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.
(Ord 67-08, §1, 3-25-08)

**Sec. 20-439. Cost of abatement of the violation.**

Within Sixty (60) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid by the date determined by the municipal authority, the charges shall become a special charge against the property and shall constitute a lien on the property.
(Ord 67-08, §1, 3-25-08)

**Sec. 20-440. Violations deemed a public nuisance.**

Any condition in violation of any of the provisions of this ordinance and declared and deemed a nuisance, may be summarily abated or restored at the violator's expense.
(Ord 67-08, §1, 3-25-08)

**Sec. 20-441. Remedies not exclusive.**

(a) The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(b) The authorized enforcement agency may recover all attorney's fees, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.
(Ord 67-08, §1, 3-25-08)

**Sec. 20-442. Obligations of authorized enforcement agency and City of Appleton.**

Nothing contained in this Illicit Discharge and Connection Ordinance shall require the City of Appleton or the authorized enforcement agency to engage in any enforcement obligations that exceed the obligations required under the Laws of the State of Wisconsin, including, but not limited to, NR Section 216.
(Ord 67-08, §1, 3-25-08)

*(The next page is 1381.)*

# Chapter 21

# Vegetation

**ARTICLE I. IN GENERAL**
Reserved....21-1 – 21-25

**ARTICLE II. PUBLIC TREES AND SHRUBS**
DIVISION 1. GENERALLY
Purpose of article....21-26
Definition....21-27
Committee authority and duties....21-28
Street tree plan....21-29
Injuring trees prohibited....21-30
Reserved....21-31 – 21-45
DIVISION 2. PLANTING, MAINTENANCE AND REMOVAL
Assessment of costs to abutting property owner....21-46
Planting, care or removal by private persons....21-47
Permit required....21-47(a)
Issuance of permit; conditions....21-47(b)
Form and duration of permit....21-47(c)
Work by public utilities....21-47(d)
Planting and removal of trees....21-48
Street widening....21-48(a)
New streets....21-48(b)
Established streets....21-48(c)
Other sites....21-48(d)
Reserved....21-49 – 21-65

**ARTICLE III. TREE INSECTS AND DISEASE**
Introduction....21-66
Declaration of public nuisance....21-66(b)
Penalty for violation of article....21-67
Declaration of nuisance....21-68
Inspection....21-69
Abatement....21-70
Notification required prior to abatement on private property....21-70(a)
Abatement procedure....21-70(b)
Notice....21-70(b)(1)
Reserved....21-71
Assessment of costs....21-72
Transport of wood prohibited....21-73
Pruning of oak trees....21-74

## ARTICLE I. IN GENERAL

**Secs. 21-1 – 21-25. Reserved.**

## ARTICLE II. PUBLIC TREES AND SHRUBS

### DIVISION 1. GENERALLY

**Sec. 21-26. Purpose of article.**

The policy of the City is to regulate and control the planting, transplanting, removal, maintenance and protection of public trees and shrubs in the City in order to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or property of the City, to promote and enhance the beauty and general welfare of the City, to prevent damage to any public sewer or watermain, street, sidewalk or other public property, and to protect trees and shrubs located in the public areas from undesirable and unsafe planting, removal, treatment and maintenance practices.
(Code 1965, §13.04(1) ; Ord 24-12, §1, 2-20-12)

**Sec. 21-27. Definition.**

For purposes of this article, public trees and shrubs means all trees or shrubs planted or to be planted on any park, playground or other property owned or controlled by the City or on any public street, alley, sidewalk or highway within the public right-of-way, but shall not include school sites.
(Code 1965, §13.04(2); Ord 24-12, §1, 2-20-12)
**Cross reference(s) –** Definitions and rules of construction generally, §1-2.

**Sec. 21-28. Committee authority and duties.**

Enforcement of this article shall be shared between the Parks and Recreation Committee and the Municipal Services Committee. These committees shall have the duty of carrying out all of the provisions of this article. The Municipal Services Committee shall have jurisdiction over all trees located within street right-of-way. The Parks and Recreation Committee shall have jurisdiction over all trees located in any other City-maintained public place within the City. The Committees are hereby directed and given the right to maintain any tree or shrub falling under their respective jurisdictions to preserve a function or beauty of such public place in accordance with the art of good arboriculture. The Committees shall have the authority to trim, remove, prune, spray, fertilize or otherwise treat any tree or shrub falling under their respective jurisdictions when in the opinion of the Committee such treatment will promote the general welfare, improve the City's appearance or alleviate any unsafe conditions.
(Code 1965, §13.04(3); Ord 24-12, §1, 2-20-12)

**Sec. 21-29. Street tree plan.**

The Municipal Services Committee is directed to develop and establish a plan for the orderly planting of trees and other public use of the streets, to facilitate care of the City's trees and to make the City more attractive.
(Code 1965, §13.04(4); Ord 24-12, §1, 2-20-12)

**Sec. 21-30. Injuring trees prohibited.**

No person shall remove, destroy, cut, deface or injure any tree existing on any public place in the City, nor shall any person attach any rope, wire, chain, sign or any other device whatsoever to any tree on any public place in the City.
(Code 1965, §13.04(10); Ord 24-12, §1, 2-20-12)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 21-31 – 21-45. Reserved.**

## DIVISION 2. PLANTING, MAINTENANCE AND REMOVAL

**Sec. 21-46. Assessment of costs to abutting property owner.**

All or part of the cost of any work done on trees and shrubs located between the lot line and curb or improved portion of any street or alley may be assessed to the abutting owners in accordance with W.S.A. §66.0627 or W.S.A. §27.09.

**Sec. 21-47. Planting, care or removal by private persons.**

(a) ***Permit required.*** No person, except upon order of the committee of jurisdiction shall plant, transplant, move, spray, brace, trim, prune, cut above or below ground, disturb, alter or do surgery on any public tree or shrub within the City or cause such acts to be done by orders without first obtaining a written permit for such work from the committee as provided in this section. This subsection shall not apply to the City, public utilities or their agents.

(b) ***Issuance of permit; conditions.***

(1) If the committee of jurisdiction determines that the proposed work or planting described in an application for a permit is necessary and in accord with the purposes of this article, taking into account the safety, health and welfare of the public, location of utilities, public sidewalks, driveways and street lights, general character of the area in which the tree or shrub is located or proposed to be located, type of soil, characteristics and physiological needs of the species or variety of tree or shrub, it shall issue a permit to the applicant.

(2) No person shall be allowed to remove any public tree without replacing such trees with trees of equivalent dollar value in the vicinity of the removed trees. Pruning, abuse or damage to any public tree by any deliberate or negligent act that has devalued a tree will be evaluated and the responsible party will be liable for the loss of value of the tree to the community. The value of trees shall be determined by the Forestry Division of the Department of Public Works by using the current Guide for Establishing Values of Trees and Shrubs as prepared by the International Society of Arboriculture. If no

suitable location exists in the vicinity of the tree removed or if the replacement tree is of lessor value, the person causing the tree to be removed shall make a compensatory payment to the City equal to the difference in value between the tree removed and any replacement tree.

(c) ***Form and duration of permit.*** Every permit shall be issued by the committee of jurisdiction on forms prepared by it and shall include a description of the work to be done and shall specify the species or variety, size, nursery grade and location of trees and shrubs to be planted, if any. Any work done under such permit must be performed in strict accordance with the terms thereof and the provisions of this article. Permits issued under this section shall expire six (6) months after the date of issuance.

(d) ***Work by public utilities.***

(1) The committees of jurisdiction annually, or as often as it deems necessary, shall meet with representatives designated by public utilities engaged in tree trimming or removal in the City to discuss clearance practices and particularly any practices the committees of jurisdiction shall find not in the best interests of the City.

(2) At the annual meeting, permission shall be granted in writing by the committee of jurisdiction to each utility to cover any clearance work done in the next twelve- (12-) month period.

(Code 1965, §13.04(9); Ord 24-12, §1, 2-21-12)

**Sec. 21-48. Planting and removal of trees.**

(a) ***Street widening.***

(1) When trees are removed in preparation for widening of any established street, new trees will be planted provided that, in the opinion of the committee of jurisdiction, there is adequate land in the terrace to reasonably support tree growth. The cost of this replanting is to be borne by the City. The committee shall determine the location of each tree to be planted and the species.

(2) The committee may also plant trees at City cost on private property abutting the widened streets if the terrace does not contain sufficient land to support tree growth and the property owner provides written permission to enter and plant trees. When the planting has been completed, maintenance and care of the trees on private property shall be the responsibility of the property owner.

(b) ***New streets.*** Following the installation of curbing and sidewalks, the committee of jurisdiction, either by request of the property owner or by resolution of the Common Council, shall cause trees to be planted in the terraces of such streets in the proper season. The location of each tree, the species and size of stock are to be determined by the committee. All or part of the cost of such planting may be assessed against each lot or parcel of adjacent property in accordance with W.S.A. §27.09 or W.S.A. §66.0627. The committee shall replace any tree planted under the plan which does not survive a period of two (2) years at no additional cost of the owners of the adjacent property.

(c) ***Established streets.*** Either by request of the property owner or by resolution of the Common Council, the committee of jurisdiction shall cause the planting of additional trees or the removal or replacement of unsightly or diseased trees in the terrace of any established street. The cost of the removal of existing trees shall be borne by the City. All or part of the cost of such replanting may be assessed against owners of adjacent property in accordance with W.S.A. §27.08 or W.S.A. §66.0627. The committee shall replace any tree planted under this plant which does not survive a period of two (2) years at no additional cost to the owners of the adjacent property.

(d) ***Other sites.*** Should any owner of adjacent property desire to plant a tree on any public place, a permit shall be obtained from the committee of jurisdiction in which the species, size of the tree and location shall be designated. The cost of such planting shall be borne by the property owner.

(Code 1965, §13.04(5) – (8); Ord 24-12, §1, 2-21-12)

**Secs. 21-49 – 21-56. Reserved.**

## ARTICLE III. TREE INSECTS AND DISEASE

**Sec. 21-66. Introduction.**

(a) Whereas, the Common Council has determined that the health of trees within the City may be threatened by insects or disease and that the loss of the trees growing upon public and private premises would substantially depreciate the market value of property within the City and impair the safety, welfare and convenience of the public, the Council hereby declares its intention to control the spread of such insects or disease.

(b) ***Declaration of public nuisance***. The existence of trees, shrubs and other flora within the city are determined to be valuable public and private assets which substantially enhance the public welfare and are aesthetically significant and economically important in terms of increased value which accrue to public and private lands as a result of their existence. The continued existence of injured or diseased trees or other plantings, or the failure to properly treat the same if treatment is available, which is likely to cause the spread of disease or endanger persons because of the deteriorated condition, is hereby declared to be a public nuisance requiring abatement.
(Code 1965, §13.05; Ord 169-11, §1, 8-9-11)

**Sec. 21-67. Penalty for violation of article.**

Any person who shall violate any provision of this article shall be subject to a penalty as provided in §1-16.
(Code 1965, §13.06)

**Sec. 21-68. Declaration of nuisance.**

(a) The following conditions are exemplary, but not an inclusive list, of matters declared to be public nuisances under this section:

(1) Any dead tree.

(2) Any elm tree infected with the Dutch elm disease fungus or which harbors any carrier of the same.

(3) Any oak tree infected with the oak wilt fungus or which harbors any carrier of the same.

(4) Any ash tree infected with Emerald Ash Borer.

(5) Any tree, bush, shrub or other plant which is infected with an insect or disease capable of infecting other plants.

(Code 1965, §13.05(1), (2) ; Ord 169-11, §1, 8-9-11)

**Sec. 21-69. Inspection.**

(a) The City Forester shall have the authority to inspect or cause to be inspected all premises and places to determine whether any public nuisance as defined in this article exists thereon, and shall also inspect or cause to be inspected any tree reported or suspected to be infected with disease or insects.

(b) The City Forester may enter upon private premises at all reasonable times for the purpose of carrying out any of the provision of this article, upon the acquiring of a special inspection warrant.
(Code 1965, §13.05(3), Ord 169-11, §1, 8-9-11)
**Cross reference(s) –** Nuisances, ch. 12.

**Sec. 21-70. Abatement.**

(a) ***Notification required prior to abatement on private property.*** Whenever the Forester shall find with reasonable certainty on examination or inspection that any public nuisance as defined in this article exists on private property within the City, the Forester shall not cause such nuisance to be abated in any manner before notification to the property owner.

(b) ***Abatement procedure.***

(1) ***Notice.*** If the City Forester determines that a dead or diseased tree or plant exists on any private property in violation of this section, a notice may be issued, in writing, by the Forester to the property owner directing, as appropriate, that such tree or plant be removed or treated as therein specified to protect surrounding trees or plants. A notice issued under this section shall provide a reasonable period of time within which to perform. The notice shall also state that the existence of the facts which give rise to the notice constitute a public nuisance which may be abated by the City upon failure of the property owner to comply with the terms of the notice.

(Code 1965, §13.05(4); Ord 169-11, §1, 8-9-11)

**Sec. 21-71. Reserved.**

(Code 1965, §13.05(5); Ord 169-11, §1, 8-9-11)

**Sec. 21-72. Assessment of costs.**

(a) All or part of the cost of abating, spraying or otherwise treating any tree in accordance with this article may be charged to and assessed against the parcel or lot abutting on the street, alley, boulevard or parkway upon which such tree stands in accordance with W.S.A. §66.0627 or W.S.A. §27.09.

(b) The cost of abating any such nuisance or spraying any tree or part thereof which is located in or upon any park or public grounds shall be borne by the City.

(c) The City Forester shall keep strict account of the costs of work done under this article and shall report monthly to the City Clerk all work done for which assessments are to be made, stating and certifying the description of the land, lots, parts of lots or parcels of land and the amounts chargeable to each. The Clerk shall include in his report to the Common Council the aggregate amounts chargeable to each lot or parcel so reported, and such amounts shall be levied and assessed against the parcels or lots in the same manner as other special taxes.
(Code 1965, §13.05(6); Ord 169-11, §1, 8-9-11)

**Sec. 21-73. Transport of wood prohibited.**

No person shall transport within the City any bark bearing wood or material that is infested with any insect without first securing the written permission of the City Forester.
(Code 1965, §13.05(7); Ord 169-11, §1, 8-9-11)

**Sec. 21-74. Pruning of oak trees.**

No person shall prune or otherwise wound an oak tree between April 1 and October 31 of any year.
(Ord 169-11, §1, 8-9-11)

*(The next page is 1437.)*

# Chapter 22

## Weights and Measures

**ARTICLE I. IN GENERAL**

Definitions ..... 22-1
Enforcement of chapter ..... 22-2
Presumptive evidence ..... 22-3
Appointment of sealer and deputy sealers; reports and records ..... 22-4
Adoption of state and federal standards ..... 22-5
Field standards and equipment specifications and tolerances ..... 22-6
Prohibited acts; penalty ..... 22-7
Responsibilities of equipment owners and users ..... 22-8
Method of sale of commodities ..... 22-9
Declaration of quantity ..... 22-10
Variations from declared quantity ..... 22-11
Advertising commodities for sale ..... 22-12
Misrepresentation of price ..... 22-13
Generally ..... 22-13(a)
Cash registers and similar devices ..... 22-13(b)(a)
UPC, scanning and point of sale systems ..... 22-13(b)(3)
Price refunds; price information ..... 22-13(c)
Coal, coke and charcoal ..... 22-14
Fireplace wood and stove wood ..... 22-15
Heating oil and motor fuel delivered to premises of consumer ..... 22-16
Motor fuel, heating oil and solvents sold on premises of seller ..... 22-17
Reserved ..... 22-18 – 22-35

**ARTICLE II. LICENSE**

Definition ..... 22-36
Persons requirement license ..... 22-37
Term; refund of fee; processing of fee ..... 22-38
Application ..... 22-39
Issuance; license fees ..... 22-40
Special fees ..... 22-41
Display ..... 22-42
Transfer; issuance to agent or employee ..... 22-43
Suspension ..... 22-44
Revocation ..... 22-45
Hearings ..... 22-46
Fee for late payment ..... 22-47
Penalty fee for use of unregistered device ..... 22-48

***Cross reference(s)--**Department of community services, §4-46 et seq.
**State law reference(s)--**Weights and measures, W.S.A. §98.01 et seq; enforcement by city, W.S.A. §98.04.

## ARTICLE I. IN GENERAL

### Sec. 22-1. Definitions.

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

***Department*** means City Department of Health.

***Incorrect*** as applied to weights and measures and commodities includes any failure to comply with the requirements of this article.

***Package*** means any commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale.

***Sealer and Deputy Sealer*** means the Sealer of Weights and Measures and Deputy Sealer of Weights and Measures to the City.

***Sell, sale and sold*** include barter or exchange and any offering or exposing for sale or possession with the intent to sell.

***Weight*** means net weight when used in reference to a commodity.

***Weights and measures*** means weights and measures of every kind, instruments and devices for weighing and measuring, counting or pricing and any appliances and accessories used with any or all such instruments and devices, except meters for the measurement of electricity, gas (natural and manufactured) or water when the meters are operated in a public utility system, and scales under the control of the grain and warehouse commission.
(Code 1965, §6.02; Ord. 16-98, §1, 3-4-98)
**Cross reference(s)** – Definitions and rules of construction generally, §1-2.

### Sec. 22-2. Enforcement of chapter.

(a) Police power is hereby conferred upon the Sealer and Deputy Sealers of weights and measures. The Sealer and Deputy Sealers shall be provided with suitable badges or insignia of authority and in the exercise of their functions shall exhibit the badge or insignia upon demand to any person questioning their powers. They may make arrests, with or without formal warrant, of any persons violating any statute or ordinance relating to weights and measures.

(b) The Sealer and Deputy Sealers may enter and go into or upon any structure or premises and may stop any person or vehicle for the purpose of enforcing this chapter. They shall inspect and test any weights or commodities which are sold or used commercially as often as necessary to secure compliance with this chapter. The Sealer or Deputy Sealer shall approve for use and seal or mark with appropriate devices such weights and measures as found upon inspection and test to be correct, and shall reject and mark or tag as rejected such weights and measures as found upon inspection or test to be incorrect but which in their best judgment are susceptible of satisfactory repair. Weights and measures that have been rejected or condemned may be confiscated and may be destroyed by the Sealer if not corrected as required by the Sealer or if used or disposed of contrary to this chapter.

(c) The Sealer or Deputy Sealer shall have the power to issue stop orders, stop sale orders and disposal orders with respect to weights and measures being, or susceptible of being, commercially used and to issue stop sale orders and disposal orders with respect to packages or amounts of commodities kept, offered or exposed for sale, sold, or in process of delivery, whenever in the court of their enforcement of the provisions of this chapter they deem it necessary or expedient to issue such orders. No person shall use, remove from the premises specified, or fail to remove from the premises specified any weight, measure or package or amount of commodity contrary to the terms of a stop use order, stop sale order or disposal order issued under the authority of this section.

(d) The Sealer shall investigate complaints made to him concerning violations of the provisions of this chapter and shall, upon his own initiative, conduct such investigations as he deems appropriate and advisable to develop information on prevailing procedures in commercial quantity determination and on possible violations of the provisions of this chapter and to promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

(e) The Sealer shall inspect and regulate closing-out sales and other terminations of business by enforcing the provisions of §9-546 et seq. Upon completion of such inspection, the Sealer shall submit a written report of his findings to the City Clerk.
(Code 1965, §6.05)

### Sec. 22-3. Presumptive evidence.

For the purpose of this chapter, proof of the existence of a weight or measure or a weighting or measuring device in or about any building, enclosure, stand or vehicle in which or from which it is shown that buying or selling is commonly carried on shall, in the absence of conclusive evidence to the contrary, be presumptive proof of the regular use of such weight or measure or weighing or measuring device for commercial purposes and of such use

by the person in charge of such building, enclosure, stand or vehicle.
(Code 1965, §6.18)

**Sec. 22-4. Appointment of sealer and deputy sealers; reports and records.**

The City Sealer and Deputy Sealers shall be appointed by the Health Officer subject to confirmation by the Common Council. The Department shall keep a complete record of its work and annually shall file a report thereof with the State Department of Agriculture, Trade and Consumer Protection and the Common Council. The Department shall also file such other reports as may be required.
(Code 1965, §6.04)

**Sec. 22-5. Adoption of state and federal standards.**

The following federal standards, Wisconsin Statutes and state rules are adopted by reference and shall be enforced under this chapter, with violations of such provisions subject to the penalties set forth in 22-7.

(1) W.S.A. Chapter 98, Weights and Measures.

(2) Wisconsin Administrative Code, Chapter ATCP 90, Packaging and Labeling.

(3) Wisconsin Administrative Code, Chapter ATCP 91, Method of Sale and Commodities.

(4) Wisconsin Administrative Code, Chapter ATCP 109, Freezer Meat and Food Service Plan Trade Practices.

(5) Wisconsin Administrative Code, Chapter ATCP 92, Scales and Scale Pits.

(6) Sections of W.S.A. Chapter 97 pertaining to product labeling, specifically including the following:

a. W.S.A. §97.03, Standards; Misbranding

b. W.S.A. §97.07, Interpretation.

c. W.S.A. §97.09, Rules.

d. W.S.A. §97.12, Enforcement.

(7) Section of W.S.A. Chapter 100 pertaining to advertising, specifically including W.S.A. §100.18, Fraudulent Advertising and W.S.A. §100.183, Fraud, Advertising Foods.

(8) NIST Handbook 44, U.S. Department of Commerce, Specifications, Tolerances and Other Technical Requirements and Commercial Weighing and Measuring Devices.

(9) Wisconsin Administrative Code, Chapter ATCP 124, Price Comparison Advertising.

(10) Wisconsin Administrative Code, Chapter ATCP, Direct Marketing.

(Code 1965, §6.01; Ord. 184-93, §1, 12-1-93; Ord 16-98, §1, 3-4-98; Ord 94-07, §1, 5-22-07)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 22-6. Field standards and equipment; specifications and tolerances.**

(a) There shall be supplied by the City such field standards and such equipment as may be found necessary to carry out the provisions of this chapter. The field standards shall be verified by the State Department of Agriculture, Trade and Consumer Protection upon their initial receipt and at regular intervals thereafter stipulated by the State.

(b) The specifications, tolerances and regulations for commercial weighing and measuring devices issued by the National Institute of Standards and Technology shall apply in the City except as modified by rules issued by the State Department of Agriculture, Trade and Consumer Protection.
(Code 1965, §6.03)

**Sec. 22-7. Prohibited acts; penalty.**

Whoever does any of the following acts shall be subject to the penalty provided in §1-16;

(1) Hinders, obstructs or impersonates the Sealer or Deputy Sealer.

(2) Uses or has in possession for use in buying or selling any commodity or service or sells any incorrect weight or measure.

(3) Represents in any manner a false quantity or price in connection with the purchase or sale, or any advertising thereof, of any commodity, thing or service.

(4) Uses or disposes of any rejected weight or measure commodity or removes therefrom any official tag, seal, stamp or mark without written authority from the Sealer or Deputy Sealer.

(5) Uses any weighing or measuring device in determining the quantity of any commodity or service to be sold or purchased without having the

device approved and sealed by the Sealer and the proper certificate obtained in accordance with §22-8.

(6) Violates any other provision of this chapter.

(Code 1965, §6.17; Ord. 16-98, §1, 3-4-98)

**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 22-8. Responsibilities of equipment owners and users.**

The owner, operator or user of any commercial weights and measures equipment, devices or associated equipment is responsible for the accuracy and maintenance of the equipment.

(1) It shall be the duty of every owner, operator or user to notify the Sealer in writing of the acquisition of any device, whether new, rebuilt or used, or of the major repair, conversion or calibration of any device already in use. The notification shall be accomplished within seventy-two (72) hours of the introduction or reintroduction into use of the device.

(2) Commercial weights and measures devices regulated by this chapter shall bear security seals appropriately affixed to any adjustment mechanisms designed to be sealed. The security seals shall bear the mark or imprint of the Sealer or Deputy Sealer or other weights and measures official, or service persons authorized by the Sealer. The security seal may only be removed to facilitate repairs of devices. The Sealer or Deputy Sealer shall be notified of the repairs and removal of the seal within seventy-two (72) hours of removal or of the introduction of a new, rebuilt or used device in accordance with subsection (1) of this section so that the devices may be sealed or resealed.

(3) Transient merchants purchasing or selling commodities or services by weight or measure either from bulk or in packaged form shall notify the Sealer and receive the approval of the Sealer before purchasing or selling activities may be commenced. At the Sealer's discretion the transient merchant may be approved for a calendar year and the subsequent notification requirement may be waived. Sellers of farm produce and seafood vendors operating from other than a continuous, permanent location shall also meet these requirements. Transients operating as part of a licensed City farm market are exempted from this requirement.

(Code 1965, §6.06; Ord 84-94, §1, 7-20-94)

**Cross reference**(s) – Citation for violation of certain ordinances, 1-17; schedule of deposits for citation, §1-18.

**Sec. 22-9. Method of sale of commodities.**

(a) Commodities in liquid form shall be sold by liquid measure and commodities not in liquid form shall be sold by weight; provided that liquid commodities may be sold by weight and commodities not in liquid form may be sold by count or measure if such methods are in general use and give accurate information as to the quantity of commodity sold.

(b) Berries and small fruits may be sold by measure only if in containers having capacities of one-half (1/2) dry pint, one (1) dry pint or one (1) dry quart.

(c) It shall be unlawful to advertise, offer for sale or sell within the City firewood, fireplace wood, slab wood or stove wood in any other manner than by the cord, fractions of a cord, volumetric measure or by weight.

(1) Mill ends, lumber scraps, and irregular pieces when sold for fuel shall be sold by net weight.

(2) The cord is hereby defined for purposes of this section as the amount of wood, or a combustible, fibrous growth, which is contained in a space of one hundred twenty-eight (128) cubic feet, when the wood is ranked and well stowed.

(3) A single log and packages of such individual logs containing less than four (4) cubic feet commonly referred to as bundles shall be sold by net weight.

Per custom, one hundred twenty-eight (128) cubic feet generally means a stack of wood four (4) feet by four (4) feet by eight (8) feet. Ranked and well stowed shall be construed to mean pieces of wood placed in a line or row with individual pieces touching and parallel to each other and stacked in a compact manner.

(d) This section shall not apply to commodities sold in compliance with a state or federal law which prescribes another method of sale or to commodities for immediate consumption on the premises where sold.

(Code 1965, §6.07)

**Cross reference(s)** – Citation for violation of certain ordinances, §1-17, schedule of deposits for citation, §1-18.

**Sec. 22-10. Declaration of quantity.**

(a) No commodity which is marked, tagged or labeled, or for which a sign is displayed, with a selling

price based upon a price per unit of weight or measure, shall be sold unless the weight or measure of the commodity is conspicuously declared on the commodity or its tag, label or sign. If a commodity is wrapped or labeled in advance of sale with a price affixed to the commodity or wrapping, the quantity that determines that price shall appear on the package with the price even though the quantity may already appear on a counter card or sign.

(b) No commodity shall be wrapped or its container made, formed or filled so as to mislead the purchaser; nor shall the qualifying term "when packaged", or the terms "jumbo" or "giant" or "full" or words of similar import that tend to mislead the purchaser as to the amount of the commodity, be used in connection with a declaration of quantity.

(c) In addition to the order declarations required by this section, any commodity in package form, the package being one (1) of a lot containing random weights, measures or counts of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure or count.
(Code 1965, §6.08)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17, schedule of deposits for citation, §1-18.

**Sec. 22-11. Variations from declared quantity.**

The magnitude of permitted variations from declared quantity shall be determined as follows:

(1) The compliance of commodities sold, either in bulk or in prepackaged form, shall be based upon the results of the application of inspection procedures and tolerances as set forth by the State Department of Agriculture, Trade and Consumer Protection.

(2) Commodities, both in bulk or prepackaged form, found in violation of this chapter after test and analysis of a random or statistical sample, shall be acted upon either individually or on a by-the-lot basis.

(Code 1965, §6.09)

**Sec. 22-12. Advertising commodities for sale.**

Whenever a commodity in bulk or packaged form is advertised in any manner and the price of the commodity is stated in the advertisement, there shall be closely and conspicuously associated with such statement of price a declaration of the quantity, of contents offered in the case of packaged commodity, or of the price per unit and the unit based upon in the case of a bulk commodity.

(1) When the commodity is in packaged form, the quantity, as it appears on the package, shall likewise appear in the advertisement, provided that where the law or regulation requires a dual declaration only that declaration setting forth the quantity in terms of the smaller unit of weight or measure (the declaration that is required to appear first on the package) need appear in the advertisement.

(2) Whenever any commodity is advertised as described, the appropriate method of sale as set forth in §22-9 and in State Statutes and rules adopted by reference shall also be applied in the advertisement.

(3) There shall not be included as part of the declaration required under this section such qualifying terms as "when packaged", "minimum", "not less then", or any other terms of similar import, nor any term qualifying a unit of weight, measure, or count, for example "jumbo", "giant", "full", and the like, that tends to exaggerate the amount of commodity in the package.

(Code 1965, §6.10)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 22-13. Misrepresentation of price.**

(a) ***Generally***. Whenever any commodity or service is sold or is offered, exposed, or advertised for sale, by weight, measure or count, the price shall not be misrepresented, nor shall the price be represented in any manner calculated or tending to mislead or deceive an actual or prospective purchaser. Whenever an advertised, posted or labeled price per unit of weight, measure or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numerals expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half (1/2) the height and width of the numerals representing the whole cents.

(b) ***Cash registers and similar devices***. Prices generated by a device such as a cash register or scanning system, are also affected under this section. The Sealer shall inspect and test such systems and monitor pricing declarations made by a relative to them, such as pricing signs, shelf tags or individually price-marked units, to ensure agreement of all prices. Prices generated by these systems shall wholly agree with posted or premarked prices for the item being sold.

(1) ***Cash registers.*** Each cash register used in buying and selling transactions shall be

maintained in proper operating condition by its owner. All components, attachments and functions of the register shall be operating correctly as designed. All pricing representations shall be accurate.

(2) ***UPC, scanning and point of sale systems.*** Pricing systems utilizing a scanning device such as a handheld gun or wand, or counter-mounted scanner units at retail checkouts which read universal product code systems or other bar code labels and the like, shall be maintained in proper operating conditions and be so calibrated to accurately read the intended systems and then generate the proper description and price for the given code.

(c) ***Price refunds; price information.***

(1) A person who uses an electronic scanner to record the price of a commodity or thing at a price higher than the posted, tagged or advertised price of that commodity or thing at least shall refund to a person who purchases the commodity or thing the difference between the posted or advertised price of the commodity or thing and the price charged at the time of sale.

(2) A person who sells a commodity or thing and who uses an electronic scanner to record the price of that commodity or thing shall display, in a conspicuous manner, a sign stating the requirements of (1).

(Code 1965, §6.11; Ord 16-98, §1, 3-4-98)

**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 22-14. Coal, coke and charcoal.**

(a) All coal, coke and charcoal shall be sold by weight. Unless the fuel is delivered to the purchaser in package form, each delivery of coal, coke or charcoal to an individual purchaser shall be accompanied by duplicate tickets on which, in ink or other indelible substance, there is clearly stated:

(1) The name and address of the vendor;

(2) The name and address of the purchaser; and

(3) The net weight of the delivery and the gross tare weights, from which the net weight is computed, each expressed in pounds.

(b) One (1) of these tickets shall be retained by the vendor and the other shall be delivered to the purchaser at the time of delivery of the fuel, or shall be surrendered on demand to the Sealer or a Deputy Sealer who, if he desires to retain it as evidence, shall issue a weight slip in lieu thereof for delivery to the purchaser. If the purchaser carries away his purchase, the vendor shall be required only to give the purchaser at the time of sale a delivery ticket stating the number of pounds of fuel delivered to him.

(Code 1965, §6.14(1))

**Cross reference(s)** – Citation for violation of certain ordinances, 1-17; schedule of deposits for citation, §1-18.

**Sec. 22-15. Fireplace wood and stove wood.**

(a) As set forth in subsection 22-9(c), firewood, fireplace wood, slab wood or stove wood shall be sold only by units of a cord or fractions of a cord, by volumetric measure, or by weight. A delivery ticket or invoice shall be presented by the seller to the purchaser whenever any nonpackaged fireplace or stove wood is sold. The delivery ticket or sales invoice shall clearly and legible state in ink or other indelible substance at least the following information:

(1) Name and address of seller;

(2) Name and address of purchaser;

(3) Date of delivery;

(4) Quantity delivered and the quantity upon which the price is based, if this differed from the delivered quantity;

(5) The price of the amount delivered; and

(6) The identity of the wood in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale.

(b) Units for firewood of less than four (4) cubic feet, whether sold as single logs or in packages consisting of two (2) or more logs commonly referred to as bundles, shall be sold by net weight. No delivery ticket or invoice is required, however, each package of two (2) or more logs shall be clearly and legibly labeled, tagged or marked with the name, address and zip code of the packager or distributor, the net weight contained and the species of wood provided, for example “birch firewood” or mixed hardwood”.

(c) No person shall advertise to residents of the City, nor sell and deliver within the City, any firewood, fireplace wood, slab wood or stove wood without first having obtained an annual license as required in this article. The license fee shall be as set forth in §22-40. Firewood sellers

shall ensure that their current weights and measures license number is placed in any advertisements, including those publications or broadcasts that originate outside of the city but that are directed all or in part to city residents.
(Code 1965, §6.14(2))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 22-16. Heating oil and motor fuel delivered to premises of consumer.**

All heating oils and motor fuels shall be sold by liquid measure or by net weight. In the case of each delivery of liquid fuel not in package form and in an amount greater than ten (10) gallons in the case of sale by liquid measure or one hundred (100) pounds in the case of sale by weight, there shall be rendered to the purchaser, either at the time of delivery or within a period mutually agreed upon in writing or otherwise between the vendor and the purchaser, a delivery ticket or a written statement on which, in ink or other indelible substance, there shall be clearly and legibly stated:

(1) The name and address of the vendor;

(2) The name and address of the purchaser;

(3) The identity of the type of fuel comprising the delivery;

(4) The unit price, that is, the price per gallon or per pound, as the case may be, of the fuel delivered;

(5) In the case of sale by liquid measure, the liquid volume of the delivery, together with the print meter readings from which such liquid volume has been computed, expressed in terms of the gallon and its binary or decimal subdivisions; and

(6) In the case of sale by weight, the net weight of the delivery, together with any weighing scale readings, from which such net weight has been computed, expressed in terms of tons or pounds avoirdupois.

(Code 1965, §6.14(3))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 22-17. Motor fuel, heating oil and solvents sold on premises of seller.**

Every wholesaler, retailer and every other person selling or distributing motor fuel, heating oil or solvents in the City shall keep posted in a conspicuous place, accessible to the public, at his place of business and on every pump from which delivery is made directly into the fuel tank attached to a motor vehicle or into any other vessel brought onto same premises by the user, a placard, sign or the like clearly stating the identity of each product dispensed, i.e., the grade, blend or mixture of the product, and the net selling price per gallon, along with the amount of all taxes per gallon thereon, except that no such placard shall be required on a computer pump whereupon the information described is legibly shown on the face.
(Code 1965, §6.15)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Secs. 22-18 – 22-35. Reserved.**

## ARTICLE II. LICENSE*

### Sec. 22-36. Definition.

For purposes of this article, commercial weighing or measuring devices means those devices used or employed in establishing the size, quantity, extent, area or measurement of quantities, things, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure.
(Code 1965, §6.16(2))
**Cross reference(s)** – Definitions and rules of construction generally, §1-2.

### Sec. 22-37. Persons requiring license.

No person shall operate weights and measures, weighing or measuring devices and systems and accessories relating thereto, which are used commercially within the city in determining the weight, measure or count of commodities or things sold or purchased or offered or exposed for sale on the basis of weight, measure or court, unless licensed pursuant to the provisions of this article. Transients operating as a part of a licensed city farm market are exempted from this license. Those who may legally sell from bulk or who prepackage for on-premises sale by weight or measure without weighing and measuring devices shall also be licensed.
(Code 1965, §6.16(1); Ord. 85-94, §1, 7-20-94)
**Cross reference(s)** – Licenses, permits & business regulations, ch. 9, Citation for violation of certain ordinances, §1,1-17; schedule of deposits for citation, §1-18.

### Sec. 22-38. Term; refund of fee; processing fee.

(a) Licenses shall be required under this article commencing January 1. All licenses shall expire or terminate on December 31 of each year, except firewood dealer licenses shall expire on June 30. No license fee shall be refunded if a license or permit is denied or revoked for cause.

(b) An annual processing feet shall be paid in addition to any license fee due. The amount of the annual processing fee shall be on file at the Department of Health.
(Code 1965, §6.16(1); Ord. 111-93, §1, 7-7-93)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

### Sec. 22-39. Application.

The application for a weighing or measuring license shall be made in writing on a form provided for such purpose by the City Sealer. Such application shall state the type and number of weighing and measuring devices to be licensed, the business address where the devices are located, the applicant's full name, signature, and post office address, and whether such person is an individual, firm, corporation or partnership. The names and addresses of all officers or partners shall be included.
(Code 1965, §6.16(3))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

### Sec. 22-40. Issuance; license fees.

The City Sealer shall issue a license under this article to the applicant based on the total number of weighing and measuring devices operated by the applicant if the requirements of this chapter have been complied with and upon payment to the City of the applicable fee. The fee for licensing of weighing and measuring devices shall be on file with the Department of Health.
(Code 1965, §6.16(4); ord. 166-89, 12-6-89; Ord. 103-91, §1, 10-2-91; Ord. 112-93, §1, 7-7-93)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

### Sec. 22-41. Special fees.

Notwithstanding the provision for the requirement of an annual license for weighing and measuring devices, whenever a special request is made for consultation or the inspection or testing of a noncategorized weighing or measuring device, the actual expenses may be charged to the person or firm receiving the service. Such payment or charge shall be based on the current hourly rate.
(Code 1965, §6.16(6); Ord. 103-91, §1, 10-2-91)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

### Sec. 22-42. Display.

All persons licensed under the provisions of this article shall immediately post their license upon some conspicuous part of the premises on which the business is conducted and the license shall remain posted for the period the license is in force.

### Sec. 22-43. Transfer; issuance to agent or employee.

No license issued under this article may be transferred unless otherwise provided for by the ordinances of the City. No license shall be issued to or used by any person acting for or in the employ of another.

### Sec. 22-44. Suspension.

Notwithstanding any other provisions of this chapter, whenever the City Sealer finds that business on any premises licensed under this article is conducted or managed in such a manner that there are serious or repeated

violations of this chapter or violation of any ordinances or regulations of the City, the laws of the state or regulations of the National Institute of Standards and Technology relating to weights and measures, he may, without warning, notice or hearing, issue a written notice to the license holder, operator or employee in charge of the licensed premises city such condition and specifying the corrective action to be taken. If deemed necessary, such order shall state that the license is immediately suspended and that all weighing and measuring operations are to be discontinued. Any person to whom such an order is issued shall comply immediately, but upon written petition to the Common Council shall be afforded a hearing before the Safety and Licensing Committee within twenty (20) days of such petition. Failure to allow an inspector immediate access to the premises to determine whether such grounds exist shall be grounds for suspension.
(Code 1965, §6.16(8) Ord 108-04, §1, 8-10-04)
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-1.

**Sec. 22-45. Revocation.**

For serious or repeated violations of any of the requirements of this chapter or for interference with the City Sealer in the performance of his duties, the City Sealer may permanently revoke the license issued under this article. Prior to such action, the City Sealer shall notify the license holder in writing, stating the reasons for which the license is subject to revocation, and advising that the license shall be permanently revoked at the end of five (5) days following service of such notice unless a request for a hearing is filed with the Common Council by the license holder within such five (5) day period.
(Code 1965, §6.16(9))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 22-46. Hearings.**

The hearings provided for in this article shall be conducted by the Board of Health at a time and place designated by the committee chairman. Based upon the record of such hearing, the City Sealer shall be charged with enforcing the decisions of the Committee. A written report of a hearing decision shall be furnished to the license holder by the committee chairman.
(Code 1965, §6.16(11))
**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 22-47. Fee for late payment**.

An application for renewal shall be filed with the City Sealer on or before December 31 of each year, together with the payment of the required permit fee. If the annual renewal fee is not paid prior to December 31, an additional late payment fee on file with the City Clerk per establishment shall be required. Establishments operating on January 15 without proper license shall be ordered closed by the Health Officer. Failure to comply with result in the issuance of a uniform citation with current bond as set forth in the Appleton Municipal Code. Each violation and each day a violation continues or occurs shall constitute a separate offense. Firewood dealers are exempted from this provision.
(Ord. 103-91, §1, 10-2-91; Ord. 63-01, §1, 2-26-01)

**Sec. 22-48. Penalty fee for use of unregistered device.**

Failure to make notification to the City Sealer within seventy-two (72) hours of the addition or replacement of any new or used weights and measures equipment, including any scale, pump, meter, etc., a penalty of triple the device fee herein prescribed shall be assessed. Payment of any fee mentioned in this subsection, however, shall in no way relieve any person or firm of the penalties that may be imposed for violation of this chapter.
(Ord. 103-91, §1, 10-2-91)

*(The next page is 1497.)*

CHAPTER 23

# ZONING

# Chapter 23

# Zoning

**ARTICLE I. INTRODUCTORY INFORMATION**
Title ..... 23-1
Purpose; intent ..... 23-2
Relationship to comprehensive plan ..... 23-3

**ARTICLE II. DEFINITIONS**
Purpose ..... 23-21
Words and terms defined ..... 23-22

**ARTICLE III. GENERAL PROVISIONS**
Rules ..... 23-31
Application of this chapter ..... 23-32
Private agreements ..... 23-33
Separability ..... 23-34
Transition rules ..... 23-35
Repeal of conflicting ordinances and effective date ..... 23-36
Zoning districts ..... 23-37
Official zoning map ..... 23-38
Rules for interpretation of district boundaries ..... 23-39
Application of district regulations ..... 23-40
Exemptions ..... 23-41
Nonconforming buildings, structures, uses and lots ..... 23-42
Accessory uses, buildings and structures ..... 23-43
Fences and walls ..... 23-44
Home occupations ..... 23-45
Outdoor storage and display in non-residential districts ..... 23-46
Refuse container and dumpster enclosure standards ..... 23-47
Bed and breakfast establishments ..... 23-48
Drive through facility ..... 23-49
Dimensional exceptions and modifications ..... 23-50
Zoning with design requirements ..... 23-51
Community-based residential facility (CBRF) and community living arrangements (CLA) ..... 23-52
Outdoor lighting ..... 23-53
Temporary uses and structures ..... 23-54
Reserved ..... 23-55 – 23-59

**ARTICLE IV. ADMINISTRATION**
Purpose ..... 23-60
Common Council ..... 23-61
Plan commission ..... 23-62
Board of Appeals ..... 23-63
Administration ..... 23-64
Zoning amendments ..... 23-65
Special use permits. ..... 23-66
Variances ..... 23-67
Administrative appeals ..... 23-68
Enforcement ..... 23-69
Reserved ..... 23-70 – 23-90

**ARTICLE V. RESIDENTIAL DISTRICTS**
AG agricultural district ..... 23-91
R-1A single-family district ..... 23-92
R-1B single-family district ..... 23-93

R-1C central city residential district....23-94
R-2 two-family district....23-95
R-3 multi-family district....23-96
Reserved....23-97 – 23-99
P-I public institutional district....23-100
NC nature conservancy district....23-101
Reserved....23-102 – 23-110

**ARTICLE VI. COMMERCIAL DISTRICTS**
C-O commercial office district....23-111
C-1 neighborhood commercial district....23-112
C-2 general commercial district....23-113
CBD central business district....23-114
P parking district....23-116
Reserved....23-116 – 23-130

**ARTICLE VII. INDUSTRIAL DISTRICTS**
M-1 industrial park district....23-131
M-2 general industrial district....23-132
Reserved....23-133 – 23-149

**ARTICLE VIII. OVERLAY DISTRICTS**
Overlay districts purpose....23-150
PD planned development overlay district....23-151
TND traditional neighborhood overlay district....23-152
Reserved....23-153 – 23-171

**ARTICLE IX. OFF-STREET PARKING AND LOADING**
Off-street parking and loading standards....23-172
Reserved....23-173 – 23-200

**ARTICLE X. FLOODPLAIN ZONING**
DIVISION 1. STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE TITLE AND GENERAL PROVISIONS
Statutory authorization....23-201
Finding of fact....23-202
Statement of purpose....23-203
Title....23-204
Definitions....23-205
General provisions....23-206
Reserved....23-207 – 23-220
DIVISION 2. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS
Hydraulic and hydrologic analyses....23-221
Watercourse alterations....23-222
Chs. 30, 31, Wis. Stats. development....23-223
Public or private campgrounds....23-224
Reserved....23-225 – 23-235
DIVISION 3. FLOODWAY DISTRICT (FW)
Applicability....23-236
Permitted uses....23-237
Standards for development in floodway areas....23-238
Prohibited uses....23-239
Reserved....23-240 – 23-250
DIVISION 4. FLOODFRINGE DISTRICT (FF)
Applicability....23-251
Permitted uses....23-252
Standards for development in floodfringe areas....23-253
Reserved....23-254 – 23-265

DIVISION 5. OTHER FLOODPLAIN DISTRICTS
General floodplain district (GFP).....23-266
Flood storage district.....23-267
Reserved.....23-268 – 23-280
DIVISION 6. NONCONFORMING USES
General.....23-281
Floodway areas.....23-282
Floodfringe areas.....23-283
Flood storage areas.....23-284
Reserved.....23-285 – 23-290
DIVISION 7. ADMINISTRATION
Zoning administrator.....23-291
Zoning Agency.....23-292
Board of appeals.....23-293
To review appeals of permit denials.....23-294
Floodproofing.....23-295
Public information.....23-296
Reserved.....23-297 – 23-304
DIVISION 8. AMENDMENTS
General.....23-305
Procedures.....23-306
Reserved.....23-307 – 23-310
DIVISION 9. ENFORCEMENT AND PENALTIES
General.....23-311
Reserved.....23-312 – 23-325

**ARTICLE XI. RESERVED**
Reserved.....23-326 – 23-389

**ARTICLE XII. SEXUALLY-ORIENTED ESTABLISHMENTS**
Purpose.....23-390
Definitions.....23-391
Standards.....23-392
Permits.....23-393
Reserved.....23-394 – 23-419

**ARTICLE XIII. WIRELESS TELECOMMUNICATIONS FACILITIES**
Purpose.....23-420
Definitions.....23-421
Special use permit requirements.....23-422
Building permit requirements.....23-423
Tower/structure design requirements.....23-424
Co-location requirements.....23-425
Accommodation of other uses (co-location).....23-426
Removal of abandoned antennas and towers.....23-427
Reserved.....23-428 – 23-499

**ARTICLE XIV. SIGNS**
DIVISION 1. INTRODUCTORY INFORMATION
Purpose.....23-500
Applicability and effect.....23-501
Reserved.....23-502 – 23-503
DIVISION 2. DEFINITIONS
Definitions and interpretation.....23-504
DIVISION 3. GENERAL PROVISIONS
Prohibited signs.....23-505
Legal, nonconforming signs.....23-506
Signs in the right-of-way.....23-507

Signs not requiring a permit ..... 23-508
Reserved ..... 23-509 – 23-521
DIVISION 4. DESIGN STANDARDS
Number of signs ..... 23-522
Sign face calculation ..... 23-523
Ground sign height ..... 23-524
Setback and clearance ..... 23-525
Portable sign display limits ..... 23-526
Awning, canopy and marquee signs ..... 23-527
Sign lighting ..... 23-528
Design standard exceptions ..... 23-529
Reserved ..... 23-530 – 23-539
DIVISION 5. ADMINISTRATIVE PROCEDURES
Sign permit ..... 23-540
Denial of sign permit ..... 23-541
Variation procedures ..... 23-542
Required equipment ..... 23-543
Indemnification of the city for sign installation and maintenance ..... 23-544
Installation and maintenance of electric signs ..... 23-545
Construction specifications ..... 23-546
Maintenance required; abandoned signs ..... 23-547
Payment for sign removal ..... 23-548
Penalty ..... 23-549
Reserved ..... 23-550 – 23-559
DIVISION 6. SIGNS ALLOWED BY ZONING DISTRICTS
Master signage plan ..... 23-560
Zoning district regulations ..... 23-561
Regulations for banners in the right-of-way ..... 23-562
Reserved ..... 23-563 – 23-669

**ARTICLE XV. SITE PLAN REVIEW AND APPROVAL**
Site plan review and approval ..... 23-570
Reserved ..... 23-571 – 23-600

**ARTICLE XVI. LANDSCAPING AND SCREENING**
Landscaping and screening standards ..... 23-601
Reserved ..... 23-602 – 23-650

**ARTICLE XVII. HISTORIC PRESERVATION**
Historic preservation ..... 23-651
Reserved ..... 23-652 – 23-699

**ARTICLE XVIII. SMALL WIND ENERGY SYSTEMS**
Small wind energy systems ..... 23-700

**ARTICLE XIX. SHORELAND ZONING**
Shoreland zoning ..... 23-750

**Editor's Note:** This chapter was repealed and recreated pursuant to Ordinance 74-04, adopted June 2, 2004 and published June 7, 2004.

**Editor's Note:** All references to Planning Director or Planning Department were changed to Community Development Director or Community Development Department pursuant to Ordinance 139-05, adopted December 7, 2005, published December 12, 2005 and effective December 13, 2005.

**Editor's Note:** All references to Community Development Director of Community Development Department were changed to Community and Economic Development Director or Community and Economic Development Department pursuant to Ordinance No. 32-12, adopted April 4, 2012, published April 9, 2012 and effective April 10, 2012.

## ARTICLE I. INTRODUCTORY INFORMATION

### Sec. 23-1. Title.

This chapter shall be known and may be cited and referred to as the "Appleton Zoning Ordinance", or "this chapter".

### Sec. 23-2. Purpose; intent.

This chapter is adopted for the following purposes:

(a) To promote and protect the health, safety, morals, comfort, convenience and general welfare of the community through encouraging the most appropriate uses of land in the city.

(b) To achieve the arrangement of land uses described in the VISION 20/20: Comprehensive Plan for the development of the City as adopted by Council.

(c) To minimize congestion in the public rights-of-way through the regulation of off-street parking, maneuvering, loading and signage;

(d) To ensure the provision of adequate open space for light, air and fire safety.

(e) To facilitate the adequate, efficient and cost effective provisions for infrastructure and other public services and facilities.

(f) To promote the conservation, protection, restoration and enhancement of the historic resources of the city.

(g) To enhance economic development.

(h) To conserve the natural, scenic beauty and attractiveness of the City and to enhance the aesthetic desirability of the environment.

(i) To divide the City into districts within which the uniform location, sizes and uses of buildings and minimum open spaces shall be regulated.

(j) To prohibit the use of buildings, structures and lands which are incompatible with the intended use or development of lands within specified districts.

(k) To provide regulations pertaining to pre-existing lots, structures and uses that do not conform to provisions of this chapter.

(l) To provide for the compatible and appropriate use of land throughout the City.

(m) To promote orderly development of all areas of the community.

(n) To provide for the administration of this chapter and its amendments.

(o) To define the powers and duties of the officers and bodies charged to administer this chapter.

(p) To describe penalties for the violation of provisions of this chapter or any of its amendments.
(Ord 61-94, §5, 5-18-94)

### 23-3. Relationship to comprehensive plan.

The VISION 20/20: Comprehensive Plan for the City of Appleton, adopted on July 8, 1996, and as amended establishes the goals, objectives and strategies that serve as a basis for this zoning ordinance. All regulations or amendments adopted pursuant to this ordinance shall be generally consistent with the VISION 20/20: Comprehensive Plan as adopted and revised or updated.

**Secs. 23-4 – 23-20. Reserved.**

## ARTICLE II. DEFINITIONS

### Sec. 23-21. Purpose

The following words and terms, wherever they occur in this chapter, shall be construed as herein defined. Words not defined in this zoning ordinance shall be interpreted in accordance with definitions in *The New Illustrated Book of Development Definitions* by Harvey S. Moskowitz, the State Building Code or Uniform Dwelling Code. If a word or term is not defined as identified by the protocol above, it shall have the meaning set forth in the latest edition of Webster's New World College Dictionary.

### Sec. 23-22. Words and terms defined.

For the purposes of this article, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise.

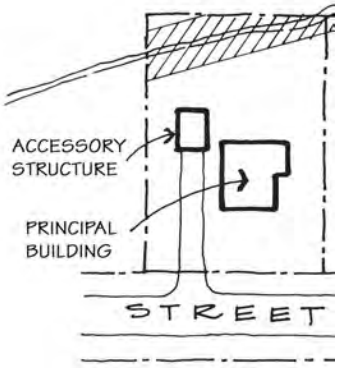
# *A*

***Abandonment*** means to cease or discontinue a use or activity without intent to resume, but excluding the temporary or short term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

***Abutting*** means having a common border with, or being separated from such a common border by a right-of-way, alley or easement.

***Accessory building*** means a subordinate building, the use of which is incidental to and customary in connection with the principal building, structure or use, and which is located on the same lot with such principal building, structure or use. Examples of accessory buildings include, but are not limited to, attached garages, detached garages, attached carports, detached carports, sheds and gazebos.

***Accessory structure*** means a subordinate structure, the use of which is incidental to and customary in connection with the principal building, structure or use, and which is located on the same lot with such principal building, structure or use. An accessory structure is not necessarily a building. Examples of non-building accessory structures include, but are not limited to, parking lots, fences, patios, decks, play equipment, swimming pools and tennis or basketball courts.




***Accessory use*** means a subordinate use that is incidental to and customary in connection with the principal building, structure or use, and is located on the same lot with such principal building, structure or use.

***Addition or Expansion*** means an increase in gross floor area, gross square foot area, height, lot coverage, building coverage, length, or width of an existing building, structure, off-street parking lot, off-street loading area or use.

***Adjacent***. See ***Abutting***.

***Agriculture*** means a use involving the raising of field crops and horticulture.

***Alley*** means a public thoroughfare that generally affords only a secondary means of access to abutting property.

***Alteration, Building or Structure*** means any change involving the addition, removal, replacement, relocation of supporting members of an existing building or structure, not including off-street parking lots and loading areas, such as bearing walls, posts, columns, beams, plates, doors, windows, foundation walls, roofs or exterior walls.

***Amusement arcade*** means a use in which fifteen (15) or more pinball machines, video games or other similar player-operated amusement devices (see §9-126) are maintained. Principal uses which require a special use permit are not considered an amusement arcade (e.g. taverns, neighborhood recreation centers).

***Antenna*** means any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves, digital signals, radio frequencies, wireless telecommunications signals, including, but not limited to, directional antennas, such as panel(s), microwave and satellite dishes, and omni-directional antennas, such as whip antennas.

***Apartment dwelling*** means a use containing a room or suite of rooms rented or leased, with cooking facilities available within the suite of rooms which is occupied as a residence by a single family or a group of individuals living together as a single family unit. This includes any unit in residential buildings with three (3) or more dwelling units or any one (1) or more units in a building used primarily for nonresidential uses.

***Architectural features*** means ornamentation or decorative features attached to or protruding from an exterior wall including, but not limited to, cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

***Arterial street*** means a street that is designed to efficiently carry substantial traffic volumes within and through the City. Access to abutting properties is a subordinate arterial street function.

***Asphalt plant*** means use that stores materials for and manufactures asphalt products for distribution off premises.

***Assisted living and retirement home*** means a use involving a nonprofit residential facility, which as its primary function provides personal care above the level of room and board to retired persons, where three (3) or more unrelated adults or their spouses have their principal residence and where support services, including meals from a common kitchen, are available to residents.

***Attached building or structure*** means a building or structure, which is attached to another building or structure by a wall, a roof or by a continuous foundation.

***Automobile/vehicle car wash***. See ***Car wash***.

***Automobile maintenance shop*** means a use where the exclusive service performed or executed on any motor vehicles of less than twenty-six thousand (26,000) pounds gross vehicle weight rating (GVWR), for compensation, includes the installation of exhaust system, repair of the electrical system, transmission repair, brake repair, tire repair and installation, rust proofing, motor vehicle diagnostic center, major and minor mechanical repairs.

***Automobile, RV, truck, cycle and boat rental and display lot*** means a use involving the display and temporary storage of motor vehicles, including recreational vehicles, trucks, motorcycles and boats for rental or lease to the general public and where repair or service work to those vehicles is incidental to the operation of the rental fleet.

***Automobile, RV, truck, cycle and boat sales and display lot*** means a use involving the display and temporary storage, for sale, of new or used motor vehicles including recreational vehicles, trucks, motorcycles and boats, and where repair or service work is incidental to the operation of new or used vehicle sales.

# B

***Bar***. See ***Tavern***.

***Barrier*** means anything that prevents access to a particular location.

***Base course*** means the horizontal layer of stone aggregate or other compacted material underneath the surface course.

***Bed and breakfast establishment*** means a use involving lodging in a single-family dwelling that provides for overnight accommodations and a morning meal to transients for compensation.

***Berm*** means earthen material and soil covered with sod placed in an irregular shaped mound or linear shaped mound along a property line, right-of-way, or other feature. Berm shall also include earthen berm.

***Bicycle parking space*** means an area designated and equipped for the purpose of parking and securing a bicycle.

***Body repair or paint shop*** means a use conducting body work, frame work, welding and painting of an entire vehicle, boat, RV, or truck or a major portion thereof of any of the aforementioned motor vehicles of less than twenty-six thousand (26,000) pounds gross vehicle weight rating (GVWR), or boats.

***Buffer*** means the use of land, topography, difference in elevation, space, fences or landscape planting to screen, or partially screen, a use or property from another use or property.

***Buildable area*** means the space remaining on a lot after the minimum setback, open space, easements and other site constraint requirements of this chapter have been satisfied.

***Building*** means any structure having a roof that may provide shelter, support, protection or enclosure of persons, animals or property of any kind.

***Building coverage*** means a percentage figure referring to that portion of a lot covered with principal and/or accessory buildings.

***Building footprint*** means the ground area covered by and including the exterior dimensions of a building, including enclosed porches, attached garages and carports.

***Building height*** means the vertical distance to be measured from the finished grade plane of a building line, to the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the average height between the top plate and ridge for gable, hip and gambrel roofs. (See graphic on the following page)

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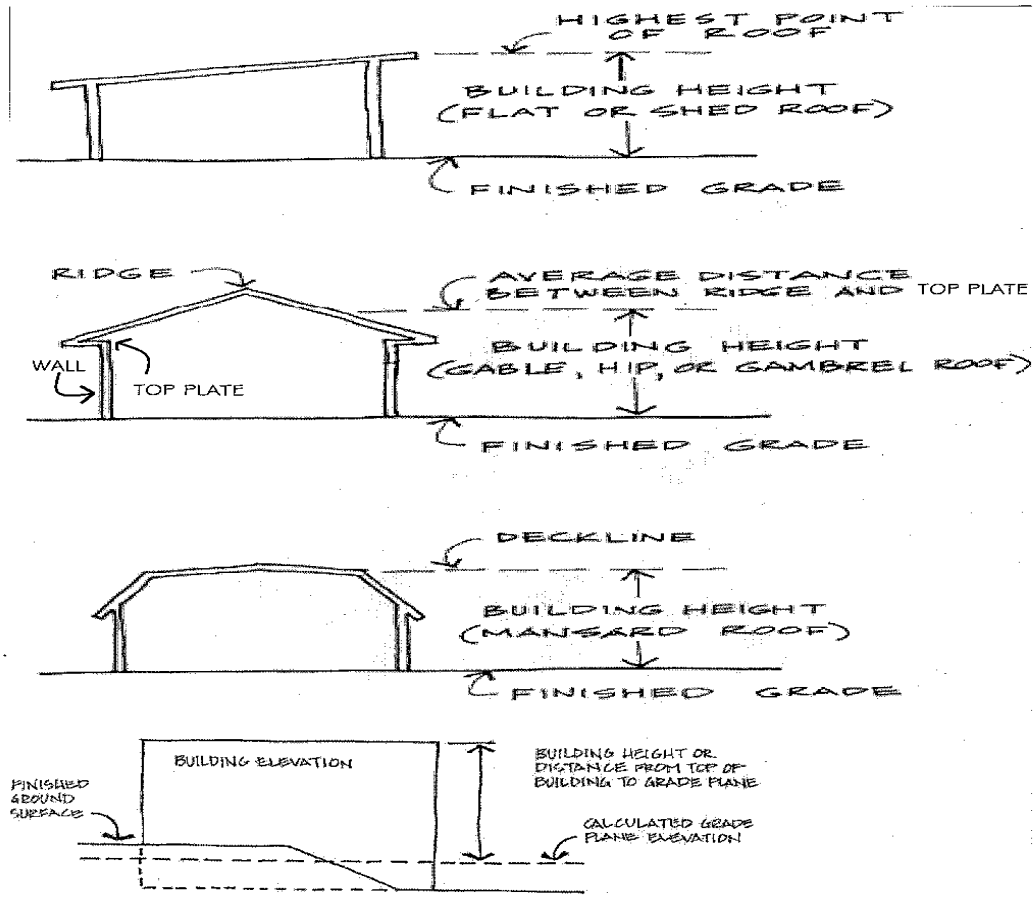



***Building line*** means a line separating buildable area from any required yards or open spaces as defined herein. Building line will constitute the footing walls rather than the overhang.

***Building, principal*** means a building which contains the primary use of the lot, as contrasted to accessory structure, building or use. In any residential zone a dwelling shall be deemed to be the principal building on the lot.

***Bulk flammable or combustible liquid storage or distribution facility*** means a use involving the storage and eventual resale to distributors or retail dealers of liquids, chemicals, or petroleum products that, by reason of their toxic, caustic, corrosive, abrasive, flammable or combustible nature, may be detrimental to the health of any person handling or otherwise coming into contact with such liquids.

***Bus terminal*** means any use involving the storage or parking of motor-driven buses and the loading and unloading of passengers.

***Business*** means any lawful use, occupation, employment or enterprise where merchandise is exhibited or sold or where services are offered for compensation.

# C

***Canopy*** means a structure constructed of fabric or pliable material, metal, wood, brick or other material, consisting of a roof and support by columns or stanchions, not enclosed, attached or unattached to a building. Examples of canopies include, but are not limited to, gas pump canopies at gasoline stations, canopies associated with a temporary use, drive-through canopies at banks, pharmacies and restaurants.
(Ord 33-15, §1, 3-24-15)

***Car wash*** means the use of a tract of land, building, or portion thereof, for the manual or automatic washing and cleaning of passenger vehicles, recreational vehicles or other light duty equipment.

***Carport*** means a detached or attached accessory building that consists of a roof and that has at least two (2) sides completely unenclosed from the ground to the roof, which is designed primarily for storage and/or parking of passenger vehicles, trailers, recreational vehicles, and trucks of a rated capacity not in excess of ten thousand (10,000) pounds gross weight.

***Cemetery*** means the use of land or land dedicated for the burial of the dead, including mausoleums, necessary sales and maintenance facilities.

***Change of use*** means the replacement of an existing use on any portion of a lot, by a new use or change in the nature of any existing use, but does not include a change of ownership, tenancy, or management associated with a use in which the previous nature of the use remains unchanged. A change in use from a vacant building or structure to an occupied building or structure shall be considered a Change of use, unless the use is a continuation of a prior use. For the purposes of this chapter, the prior use includes the last established use that was issued a certificate of occupancy to legally occupy the vacant building or structure.

***Child welfare agency*** means any use operated by a person required to be licensed by the Department of Health and Family Services that takes custody of and provides care and maintenance for four (4) or more children for a period of seventy-five (75) days in any consecutive twelve (12) month period.

***Christmas tree sales lot, outdoor*** means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant displays and sells Christmas trees and related holiday items such as wreaths and Christmas tree stands to the general public.

***Circus and carnival*** means any use including a temporary outdoor amusement center, bazaar, or fair, involving the use of special purpose equipment operated by professional operators and where activities include such things such as: live performances, animal exhibits, rides, exhibitions, food services, sales, and/or small scale games.

***Class 2 notice*** means notice of a public hearing that is required by Wisconsin Statutes to be inserted twice into the official municipal newspaper. For City planning matters, notice is required once in each of two (2) separate weeks prior to the scheduled hearing.

***Class A vehicle*** means any combination of vehicles with a gross vehicle weight rating, actual gross weight or registered weight of over 26,000 pounds, if the aggregate total gross vehicle weight rating, actual gross weight or registered weight of the vehicle or vehicles being towed is in excess of 10,000 pounds.

***Class B vehicle*** means any single vehicle with a gross vehicle weight rating, actual gross weight or registered weight of over 26,000 pounds, and any such vehicle towing a vehicle or vehicles with an aggregate total gross vehicle weight rating, actual gross weight or registered weight of 10,000 pounds or less.

***Class C vehicle*** means any single vehicle with a gross vehicle weight rating, actual gross weight and registered weight of 26,000 pounds or less, including any such vehicle towing a vehicle with a gross vehicle weight rating, actual gross weight and registered weight of less than 10,000 pounds, if any of the following applies:

1. The vehicle is designed to transport sixteen (16) or more passengers, including the driver.

2. The vehicle is transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

***Class D vehicle*** is any motor vehicle not identified as a Class A, B, C, or M motor vehicle.

***Class M vehicle*** means any type 1 motorcycle.

***Club*** means any use where a nonprofit association of persons who are bona fide members paying regular dues, and who are organized for some common purpose. Clubs shall exclude places of worship or groups organized solely or primarily to render a service customarily carried on as a commercial enterprise.

***Clubhouse*** means a support facility in conjunction with a golf course, that provides services to patrons of the golf course.

***College or university***. See ***Educational institution, college or university***.

***Commercial entertainment*** means a use that provides services related to the entertainment field within an enclosed building. Examples include: theaters, motion picture theaters, miniature golf, skate park, bowling alleys, pool and billiard halls and similar entertainment activities.

***Commercial truck body and/or paint shop*** means a use conducting body work, frame work, welding and painting of the entire vehicle or major portion thereof any truck, tractor, semi-trailer or truck-trailer combination of 26,000 pounds gross vehicle weight rating (GVWR) or more.

***Commercial truck maintenance shop*** means a use where the exclusive service performed or executed on any truck tractor, semi-trailer combination of 26,000 pounds gross vehicle weight rating (GVWR) or more, for compensation shall include the installation of exhaust system, repair of the electrical system, transmission repair, brake repair, tire repair and installation, rust proofing, truck diagnostic center, major and minor mechanical repairs.

***Commercial use*** means a use that involves conducting business, including the sale of goods and/or services.

***Community-based residential facility*** means a use where five (5) or more adults who are not related to the licensed operator or administrator and who do not require care above intermediate level nursing care, reside and receive care, treatment, or services that are above the level of room and board but that include no more than three (3) hours of nursing care per resident. (Considered a community living arrangement) A community-based residential facility is subject to the standards listed in §23-52 of this ordinance.

"Community-based residential facility" does not include any of the following:

(a) A convent or facility owned or operated by members of a religious order exclusively for the reception and care or treatment of members of that order.

(b) A facility or private home that provides care, treatment and services only for victims of domestic abuse, as defined in W.S.A. §49.165(1)(a), and their children.

(c) A shelter facility as defined as under W.S.A. §16.308(1)(d).

(d) A place that provides lodging for individuals and in which all of the following conditions are met:

(1) Each lodged individual is able to exit the place under emergency conditions without the assistance of another individual.

(2) No lodged individual receives from the owner, manager or operator of the place or the owner's, manager's or operator's agent or employee any of the following:

a. Personal care, supervision or treatment, or management, control or supervision of prescription medications.

b. Care or services other than board, information, referral, advocacy or job guidance; location and coordination of social services by an agency that is not affiliated with the owner, manager or operator, for which arrangements were made for an individual before he or she lodged in the place; or, in the case of an emergency, arrangement for the provision of health care or social services by an agency that is not affiliated with the owner, manager or operator.

(e) An adult family home.

(f) A residential care apartment complex.

***Community garden*** means land or roof tops that are managed and maintained by a group of individuals, an organization or business to grow and harvest fruits, vegetable, flowers, and other plant and herb products for education, for personal or group consumption or for donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed by members of the group and may include common areas maintained and used by group members.
(Ord 45-12, §1, 6-6-12)

***Community living arrangement*** means any of the following uses licensed or operated or permitted under the authority of the Department of Health and Family Services: residential care centers for children and youth, as defined in W.S.A. §48.02(15d), and operated by child welfare agencies licensed under W.S.A. §48.60, group homes for children, as defined in W.S.A. §48.02(7), and community-based residential facilities, as defined in W.S.A. §50.01(1g). Community living arrangements are subject to the standards listed in §23-52 of this ordinance.

This definition does not include: adult family homes, as defined in W.S.A. §50.01(1), day care centers, nursing homes, general hospitals, special hospitals, and prisons or jails.

***Comprehensive plan*** means a compilation of policy statements, goals, standards and maps for guiding the physical, social, and economic development, both private and public, of the municipality and its environs adopted by the City and as may be amended from time to time.

***Concrete mixing plant*** means a use that stores water, aggregate and cement and mixes those items for the production of concrete for distribution into trucks for off site use.

***Condominium*** means a building or group of buildings in which dwelling units, offices or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

***County*** means the county in which the property is located: Outagamie, Calumet or Winnebago.

***Covenant*** means a contract or other written agreement between private parties that constitutes a restriction on a particular parcel of land.

# *D*

***Day care, adult*** means a day program that provides the elderly and other adults with services when their caregivers are at work or need relief.

***Day care, family*** means a use licensed as a day care center by the State of Wisconsin Department of Health and Family Services where care is provided by a resident for not more than eight (8) children.

***Day care, group*** means a use, not in a private residence, that provides care and supervision for nine (9) or more children, licensed by the State of Wisconsin Department of Health and Family Services.

***Density*** means the ratio of the number of dwelling units to the lot area.

***Detached building or structure*** means a freestanding building or structure and where all sides of the building or structure are surrounded by yards or open space on the same lot.

***Developed property*** means all parcels or a portion there of that is improved with buildings, paved off-street parking spaces, or that is actively used as recreational facilities.

***Domestic animal*** means any animal that has been bred and/or raised to live in or about the habitation of humans and is dependent on people for food and shelter.

***Domicile*** means a residence that is a permanent home to an individual.

***Drive through facility (also drive-in facility)*** means any portion of a building or structure from which business is transacted or is capable of being transacted, directly with customers located in a motor vehicle during such business transaction.

***Dwelling*** means a building or part of a building containing living, sleeping, housekeeping accommodations, and sanitary facilities for occupancy by one (1) or more families.

***Dwelling, incidental apartment*** means a portion of a building designed for occupancy by a single family.

***Dwelling, detached*** means single family dwelling that is entirely surrounded by open space on the same lot.

***Dwelling, multi-family*** means a residential building containing more than three (3) dwelling units, or a building designed for occupancy by more than two (2) families.

***Dwelling, residential***. See ***Dwelling***.

***Dwelling, single family*** means a residential building containing one (1) dwelling unit.

***Dwelling, two-family (or duplex)*** means a residential building containing two (2) dwelling units.

***Dwelling unit*** means a residential building or portion thereof intended for occupancy by one (1) family, but not including hotels, motels, boarding or rooming houses or tourist homes.

# *E*

***Easement*** means a grant by a property owner for use of a parcel of land by the public or any person for any specific purpose or for purposes of access, constructing and maintaining utilities, including: sanitary sewers, water mains, electric lines, telephone lines, cable television lines, other transmission lines, storm sewer, storm drainage ways, gas lines or other service utilities.

***Educational institution; business, technical or vocational*** means a use including specialized instructional classes that provides training for business, commercial, or trade skills such as accounting, data processing or automotive repair.

***Educational institution; college or university*** means a public or private post-secondary use, with an academic curricula, including uses, structures, and/or facilities sanctioned by, ancillary to, or necessary to the operation of the college or university. This includes, but is not limited to the following ancillary uses affiliated with the college or university: food sales, retail sales indoor and/or outdoor recreation facilities, offices, printing, museums and professional service.

***Educational institution; elementary school, junior high school, high school*** means a public or private use that provides an academic curricula of elementary or secondary academic instruction, kindergartens, elementary schools, middle schools, junior high schools and high schools.

***Essential services*** means overhead or underground electrical, gas, steam or water transmission or distribution systems, and collection, communication, supply or disposal systems and structures used by public utilities or governmental

departments or commissions or systems as are required for the protection of public health, safety or general welfare, including: utility substations, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables and similar improvements.

***Expansion.*** See ***Addition or Expansion.***

# *F*

***Fair market value*** means the assessed value divided by the ratio of assessed value to recommended value as last published by the Department of Revenue or the City Assessor for the City of Appleton.

***Family*** means one (1) or more individuals not necessarily related by blood, marriage, adoption, or guardianship, living together under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

***Family home (A), adult*** means a use operated by a person or entity licensed under the authority of the Department of Health and Family Services and located in a private residence where care and maintenance above the level of room and board, but not including nursing care, are provided in the private residence by the care provider whose primary domicile is this residence for three (3) or four (4) adults, or more adults if all of the adults are siblings, each of whom has a developmental disability, as defined in W.S.A. §51.01(5). Additionally, the residence must have been licensed under W.S.A. §48.62, as a foster home or treatment foster home for the care of adults referenced herein for at least twelve (12) months before any of the adults under care reached eighteen (18) years of age. An adult family home (A) operated by a person or entity whose primary domicile is this residence and is certified under W.S.A. §50.032 (1m)(b) is not subject to the standards listed in §23-52 of this ordinance.

***Family home (B), adult*** means a use operated by a person or entity licensed as a foster home under the authority of the Department of Health and Family Services and is located in a private residence where care and maintenance are provided to children, the combined total of adults and children so served being no more than four (4) or more adults or children, if all of the adults or all of the children are siblings. Additionally, the residence must have been licensed under W.S.A. §48.62 as a foster home or treatment foster home for the care of adults referenced herein for at least twelve (12) months before any of the adults under care reached eighteen (18) years of age. An adult family home (B) operated by a person whose primary domicile is this residence and is certified under W.S.A. §50.032(1m)(b) is not subject to the standards listed in §23-52 of this ordinance. Adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies are subject to the standards listed in §23-52 of this ordinance.

***Family home (C), adult*** means a use operated by a person or entity licensed as a treatment foster home under the authority of the Department of Health and Family Services and is located in a private residence where care and maintenance are provided to children, the combined total of adults and children so served being no more than four (4). Additionally, the residence must have been licensed under W.S.A. §48.62 as a foster home or treatment foster home for the care of adults referenced herein for at least twelve (12) months before any of the adults under care reached eighteen (18) years of age. An adult family home (C) operated by a person whose primary domicile is this residence and is certified under W.S.A. §50.032(1m)(b) is not subject to the standards listed in §23-52 of this ordinance. Adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies are subject to the standards listed in §23-52 of this ordinance.

***Family home (D), adult*** means a use operated by a person or entity licensed under the authority of the Department of Health and Family Services or certified under W.S.A. §50.033(1m)(b) and is located in a private residence where three (3) or four (4) adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to seven (7) hours per week of nursing care per resident. An adult family home (D) is not subject to the standards listed in §23-52 of this ordinance.

***Farmers market*** means a temporary or seasonal use selling home produced vegetables produce, or goods in a pre-designated area, where vendors are generally individuals who have raised the vegetables or produce or have taken the same on consignment for retail.

***Farmers market, outdoor*** means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot by two (2) or more temporary merchants are displaying and selling either products of the farm or garden or any combination of products of the farm and garden and commercially processed foods, household products, crafts and handmade items.

***Fence*** means a structure constructed to enclose, screen, decrease noise levels, separate areas, or decorate areas of a lot. Fences include walls, hedges and berms meeting this definition. The term "Fence" shall not include "Guardrail". Fences are further defined as to their general purpose as follows:

(a) ***Boundary fence*** means a fence placed on or near the boundary lines common with adjacent properties to indicate the location of such boundaries.

(b) ***Sound barrier fence or berm*** means a fence or berm constructed to decrease the noise levels along an abutting major roadway.

***Fireworks sales, outdoor*** means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant displays and sells small fireworks and related 4th of July items.

***Floor area, gross floor area*** means the sum of the horizontal areas of all floors of a building or structure measured from the exterior face of the exterior walls, or from the centerline of a wall separating two (2) buildings, but excluding any space where the floor-to-ceiling height is less than six (6) feet.

***Floor area, useable*** means the area to be used for the sale of merchandise or services or for use to serve patrons, clients or customers. Floor area shall be measured from the interior faces of the exterior walls. Area excluded from useable floor area includes: areas principally used for storage or processing of merchandise, hallways, stairways, elevator shafts, areas for utilities or sanitary facilities and mechanical areas.

***Foster home*** means a use operated by a person or entity required to be licensed by W.S.A. §48.62(1)(a) and that provides care and maintenance for no more than four (4) children or, if necessary to enable a sibling group to remain together, for no more than six (6) children or, if the Department of Health and Family Services promulgates rules permitting a differing number of children, for the number of children permitted under those rules.

***Foster home, treatment*** means any facility that is operated by a person or entity required to be licensed under W.S.A. §48.62(1)(b), that is operated under the supervision of the Department of Health and Family Service, a county department or a licensed child welfare agency, and that provides to no more than four (4) children care, maintenance and structured, professional treatment by trained individuals, including the treatment foster parents.

***Freight distribution or moving center*** means a use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

***Frontage*** means that boundary of a lot that abuts a dedicated public street.

***Funeral home*** means a building used for the preparation of the deceased for display and burial, along with the rituals connected therewith, before burial or cremation. (See also ***Professional service***)

# *G*

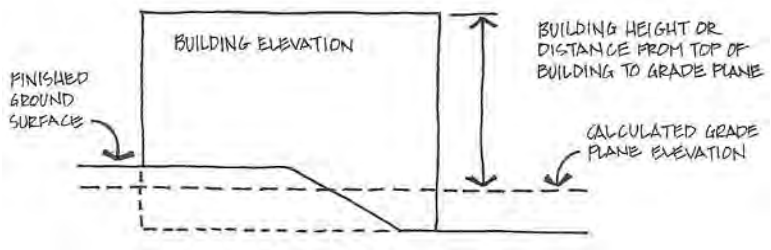
***Garage*** means a detached or attached accessory building or a portion of the principal building, which is designed primarily for storage and/or parking of passenger vehicles, trailers, recreational vehicles, and trucks of a rated capacity not in excess of ten thousand (10,000) pounds gross weight.

***Gasoline sales*** means a use limited to the retail sales of gasoline, motor oil, lubricants, motor fuels, travel aides, minor automobile accessories and convenience goods to the public, but not including automobile maintenance shops.

***Golf course*** means the use of a tract of land laid out with at least nine (9) holes for playing a game of golf and improved with tees, greens, fairways and hazards. A clubhouse, maintenance facility and shelters may be permitted as accessory uses.

***Governmental facilities*** mean a use or buildings owned or occupied by federal, state and local governments.

***Grade plane*** means a reference plane representing the average of the finished ground level adjoining the building at the exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plan shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet (1829 mm) from the building, between the building and a point six (6) feet (1,829 mm) from the building.




***Greenhouse or greenhouse nursery*** means a use that is devoted to the protection and/or cultivation of horticultural and floricultural products.

***Group day care***. See ***Day care, group***.

***Group home, adult*** means a use where five (5) or more adults, who are not related to the operator or administrator and who do not require care above intermediate level nursing care, reside and receive care, treatment or services that are above the level of room and board but that include no more than three (3) hours of nursing care per week per resident.

***Group home for children*** means any facility operated by a person or entity required to be licensed by the department under W.S.A. §48.625, for the care and maintenance of five (5) to eight (8) children, as provided in W.S.A. §48.625. (Considered a community living arrangement) A group home for children is subject to the standards listed in §23-52 of this ordinance.

***Group housing*** means a not for profit use where rooms or suites of rooms occupied by individuals not living together as a single family or families, may include common cooking facilities and resident management, but not group care providers. This category includes fraternities, sororities and dormitories; it does not include convalescent homes or community living arrangements.

***Guardrail*** means a protective railing, other than a fence, placed along a parking lot, driveway or roadway which serves to provide protection from or to vehicular traffic.

# *H*

***Harvesting of wild crops*** means the use of land, in its natural state, to gather or collect naturally grown berries, fruits, nuts, mushrooms and seeds.

***Hearing, informal*** means a hearing on a matter contained within this chapter that is not required by Wisconsin Statutes.

***Hazardous waste***. See ***Toxic Waste***.

***Hearing, public*** means the official hearing on a matter contained within this chapter that is required by Wisconsin Statutes and subject to legal notice requirements.

***Helicopter landing pad*** means an area designed to be used for the landing and/or takeoff of one (1) helicopter, the temporary parking of one (1) helicopter, and other facilities as may be required by federal and state regulations, but not including operations facilities such as maintenance, storage, fueling or terminals.

***Historic Preservation***

(1) ***Archeological significance*** means subsurface or aboveground structural remains, artifacts or other natural or cultural features of past human life or activities and may yield additional information about prehistory or history.

(2) ***Architectural feature*** means ornamentation or decorative features attached to or protruding from the outer surface of a local historic structure, local historic site or contributing structure, including but not limited to gable cornices, columns, decorative ornaments, and trim.

(3) ***Architectural significance*** means importance of a building or structure based upon the distinctive characteristics of a time period, type or method of construction.

(4) ***Certificate of Appropriateness or COA*** means the certificate issued by the Historic Preservation Commission approving a historic preservation alteration, or demolition of a local historic structure, local historic site, or a contributing structure located within a local historic district.

(5) ***Contributing structure*** means a building, object or site located within the boundaries of a local historic district and identified as contributing to the historical, cultural, archeological or architectural significance of the local historic district.

(6) ***Cultural significance*** means the importance of an improvement parcel or natural area, including any object, building, improvement or structure therein, associated with an event, or series of events, significant to the cultural traditions of Appleton, the state or the nation.

(7) ***Demolition*** means razing, destroying, dismantling or in any manner causing partial destruction or total destruction of a local historic structure, local historic site, contributing structure or any improvement.

(8) ***Designation criteria*** means a set of established standards by which the local historical significance of an improvement parcel or natural area, including any object, building, improvement or structure is judged and eligibility for designation is determined pursuant to the provisions of this section.

(9) ***Destruction, partial*** means any act or process that razes, destroys, or dismantles less than seventy-five percent (75%) of any exterior feature, exterior wall of a local historic structure, local historic site or contributing structure.

(10) ***Destruction, total*** means any act or process that razes, destroys, or dismantles seventy-five percent (75%) or more of any exterior feature, exterior wall of a local historic structure, local site or contributing structure.

(11) ***Director*** means the City of Appleton Director of Community and Economic Development Department or designee.

(12) ***Economic hardship*** means in the content of Section 23-651, economic hardship occurs when a property owner is unable to sell a local historic structure, local historic site or contributing structure solely because of the designation. The property owner or owner's agent must provide a written statement for the potential purchaser stating that they are of the requirement imposed by this section and are unwilling to make an offer on the property because of the local historic designation.

(13) ***Economically feasible*** means that the costs of the renovation/restoration of a local historic structure, local historic site or contributing structure when combined with the cost of the land, do not exceed the fair market value of the property after the renovation/restoration of the local historic structure, local historic site or contributing structure has been completed.

(14) ***Event*** means a specific occasion, circumstance, or activity that occurred on a property marking an important moment in Appleton's, the state's or the nation's prehistory or history or a historic trend that made a significant contribution to the development of Appleton, the state or the nation.

(15) ***Exterior feature*** means the general design and arrangement of the outer surfaces of a local historic structure, local historic site or contributing structure, including the kind and texture of the building material, and the type and style of all windows, doors, and other architectural features.

(16) ***Historic district, local*** means an area of two (2) or more improvement parcels that together possess significant, common characteristics that are historically, aesthetically or architecturally significant to Appleton, the state or the nation and which has been designated as a local historic district pursuant to the provisions of this section.

(17) ***Historic district plan, local*** means a document that identifies and defines appropriate strategies for the protection of the architectural, historical and cultural features of a local historic district.

(18) ***Historic preservation alteration*** means those outer surface alterations made to a local historic structure, local historic site or contributing structure, such as:

a. Installation or alteration of windows, doors or other architectural features where the original opening is proposed to be enlarged, reduced, or altered.

b. Relocation.

c. Reconstruction.

d. Rehabilitation.

e. New construction of any improvement or additions to a local historic structure, local historic site or contributing structure.

(19) ***Historic Preservation Commission*** means the Commission created under this section.

(20) ***Historic preservation repair*** means the act or process of applying measures, except for painting, necessary to prolong or replace deteriorated, decayed or damaged existing exterior features of a local historic structure, local historic site or contributing structure or any part thereof by using the like materials or where possible, original materials. The term "historic preservation repair" includes the installation of windows, doors or other architectural features where the original opening will not be enlarged, reduced or altered.

(21) ***Historic site, local*** means any parcel of land whose historic significance is due to a substantial value in tracing the history or prehistory of humanity or upon which a historic event has occurred and which has been designated as a local historic site pursuant to the provisions of this section, or an improvement parcel, or part thereof, on which is situated a local historic structure and any abutting improvement parcel, or part thereof, used as, and constituting part of, the premises on which the local historic structure is situated.

(22) ***Historic structure, local*** means any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of Appleton, the state or the nation and which has been designated as a local historic structure pursuant to the provisions of this section.

(23) ***Historical significance*** means the importance for which an improvement parcel or natural area, including any object, building, improvement or structure has been evaluated and found to meet the designation criteria.

(24) ***Important person or persons*** means an individual or a group of individuals who has made significant contributions to Appleton, the state or the nation, including but not limited to medicine, politics, commerce, history, engineering and/or architecture.

(25) ***Improvement*** means any building, structure, or object constituting a physical betterment of real property, or any part of such betterment.

(26) ***Improvement parcel*** means a lot or parcel of land together with the buildings and structures thereon, which has been assigned a tax parcel number by the City Assessor's Office. The term "improvement parcel" shall also include any unimproved area of land which has been assigned a tax parcel number by the City Assessor's Office.

(27) ***Like materials*** means the use of materials that are nearly identical in shape, size and design of existing materials.

(28) ***Member*** shall mean a regular or alternate member of the Historic Preservation Commission.

(29) ***Natural area*** as defined by Section 23.27 Wisconsin State Statutes.

(30) ***Object*** means a term used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, moveable, an object is associated with a specific setting or environment. Examples of objects include boundary markers, fountains, monuments, mileposts, sculptures, murals, statues, carvings, or stained glass,

(31) ***Owner's agent*** means a mortgagee, buyer in possession, receiver, executor, or trustee in control of a nominated or designated local historic site, local historic structure or contributing structure.

(32) ***Reconstruction*** means the act or process of depicting, by means of new construction, the exterior features and detailing of a local historic structure, local historic site or contributing structure or any part thereof that no longer exists for the purpose of replicating its appearance at a specific period of time and in its historic location.

(33) ***Rehabilitation*** means the act or process of making possible a code compliant use for a local historic structure, local historic site or contributing structure through repair, alterations, and additions while preserving those exterior features which convey its historic, architectural or cultural significance.

(34) ***Relocation*** means moving a local historic structure, local historic site or contributing structure from its original location.

(35) ***Work*** means demolition or historic preservation alteration or repair.
(Ord 99-12, §1, 10-9-12)

***Home Garden*** means an accessory use of land or roof top involving the growing and harvesting of fruits, vegetables, flowers, and other plant and herb products primarily for the consumption or enjoyment of the owner or tenant of such property.
(Ord 45-12¸§1, 6-6-12)

***Home occupation*** means the production of goods and/or services within a dwelling unit, attached garage or detached garage by a member(s) of the family residing in the residence, provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and which does not change the residential character of the neighborhood.
(Ord 28-11, §1, 1-15-11)

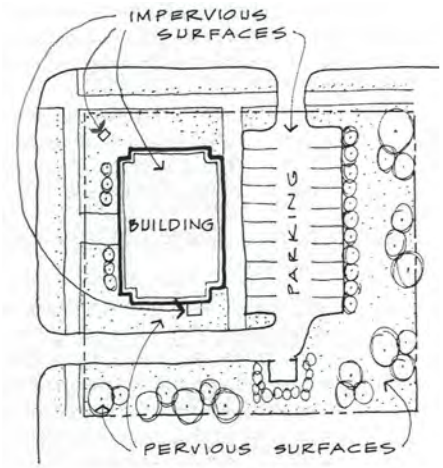
***Hospital*** means a use providing inpatient and outpatient medical and surgical care, diagnosis and treatment for sick or injured persons including beds for overnight care, laboratories, training facilities, and/or other necessary accessory facilities.

***Hotel or motel*** means a use offering lodging accommodations, in individual rooms or suites, on a daily rate to the general public and which may include additional accessory services such as restaurants, meeting rooms and personal fitness facilities.

***Human habitation*** means the use of a vehicle for dwelling. Evidence of human habitation shall include activities such as sleeping, setting up housekeeping or cooking and/or any other activity where it reasonably appears, in light of all the circumstances, that a person or persons is using the vehicle as a living accommodation. The use of a vehicle for six or more consecutive hours for eating, resting, recreating and/or sleeping shall per se constitute "human habitation" for purposes of this chapter.

# I

***Impervious surface*** means an area that releases, as runoff, all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots, and streets are examples of surfaces that are typically impervious.




***Impervious surface ratio*** means the measure of intensity of land use, determined by dividing the total of all impervious surfaces on a site by the gross area of the site.

***Indoor kennel*** means any use where any person engages in the business of boarding, grooming, breeding, buying, letting for hire, training for a fee or selling of small animals in a completely enclosed building or structure.

***Industrial use*** means a use at a scale greater than commercial uses that is engaged in custom, light and heavy manufacturing, production, processing, fabrication, assembly, packaging of finished goods, warehousing, wholesaling, and distribution of finished goods.

# J

***No Definitions***.

# K

***Kennel***. See ***Indoor kennel*** or ***Outdoor kennel***.

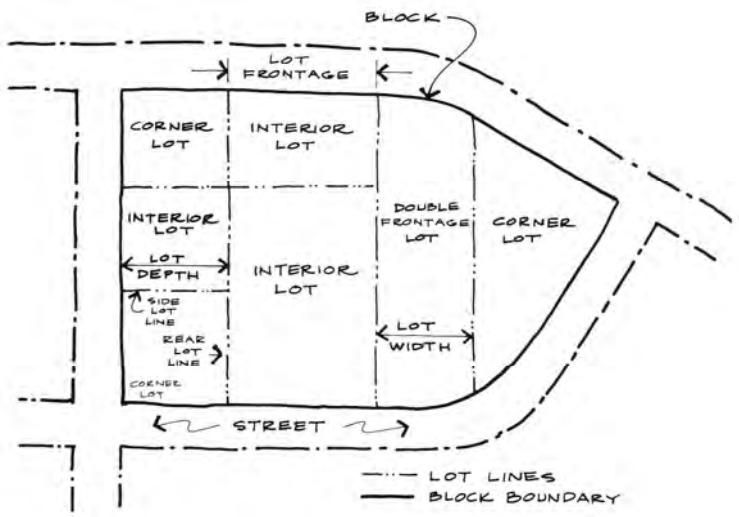
# L

***Landscape business*** means a use engaged in the decorative and functional alteration, planting and maintenance of grounds. Such a use may engage in the installation and construction of such alterations and plantings and may store the necessary equipment and materials to perform such work.

***Landscaping*** means alteration of the natural terrain, including the planting of trees, grass, shrubs and ground cover.

***Loading space*** means that portion of a lot or space accessible from a street, alley or way, in or outside of a building, designed to serve the purpose of loading or unloading for all types of vehicles.

***Lot*** means a tract of land, designated by metes and bounds, land survey, minor land division or plat, and recorded in the office of the county register of deeds.




***Lot area*** means any area within a lot, including land over which easements have been granted, but not including any land within the limits of a street upon which such lot abuts, even if fee title to such street is held by the owner of the lot.

***Lot area per unit*** means the lot area required by this chapter to be provided for each dwelling unit.

***Lot, corner*** means a lot situated at the junction of, and abutting on, two (2) or more intersecting streets.

***Lot coverage***. See ***Impervious surface***.

***Lot depth*** means the horizontal distance between the front lot line and the rear lot line. Where these lot lines are not parallel, the lot depth shall be the length of a line joining the midpoints of the front and rear lot lines.

***Lot, double frontage*** means an interior lot having frontage on the front and the rear of the lot.

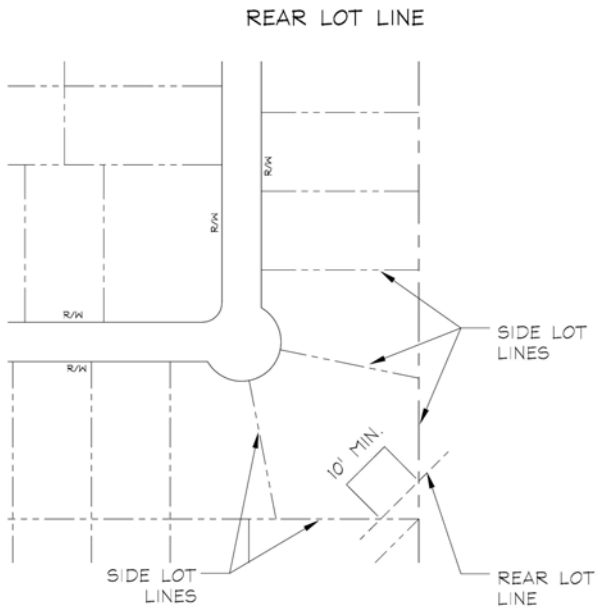
***Lot, interior*** means a lot other than a corner lot.

***Lot, land-locked*** means a lot not fronting or abutting a public street and where access to the public street is limited to a narrow ingress/egress easement.

***Lot line*** means a boundary line dividing one (1) lot from another lot or from a street or alley.

***Lot line, front*** means that boundary of a lot which abuts a dedicated public street or private street. If a lot abuts two (2) or more dedicated public streets or two (2) or more private streets, all sides facing a dedicated public street or private street shall be considered the front. In the case of a land-locked lot, the front lot line shall be that lot line that faces the access to the lot.

***Lot line, rear*** means that boundary of a lot which is opposite the front lot line with the exception of corner lots, in which case, the lot owner will have a choice to designate the rear and side yard. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be defined as a line ten (10) feet in length within the lots, parallel to, and at the maximum distance from the front lot line.




***Lot line, side*** means any boundary of a lot that is not a front lot line or a rear lot line.

***Lot of record*** means a lot which is part of a subdivision, the map of which has been recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county register of deeds.

***Lot depth*** means the average distance measured between the front lot line to the rear lot line.

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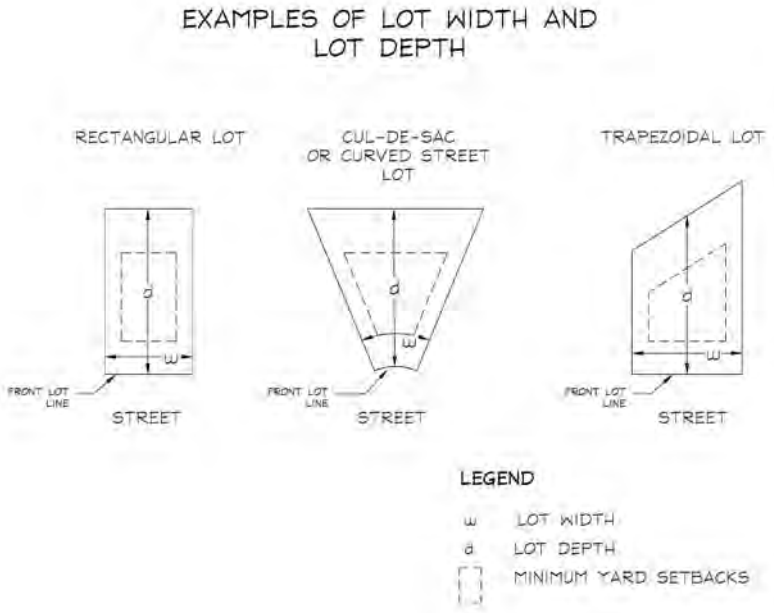



***Lot, vacant*** means a lot upon which no buildings or structures exists.

***Lot width*** means the maximum horizontal distance between the side lot lines of a lot measured along the front lot line. On a cul-de-sac, or curved street, the front setback line shall be used to determine minimum lot width.

# *M*

***Management of forestry and fish*** means the protection and preservation of land, in its natural state, for woodlands, native species of woody plant material and watercourses, lakes and ponds for fish.

***Manufacturing, custom*** means a use primarily engaged in the limited on-site production of goods by hand manufacturing which involves only the use of hand tools or domestic mechanical equipment that does not exceed two (2) horsepower each or a single kiln not exceeding eight (8) cubic feet in volume and the incidental direct sale to consumers. Typical custom manufacturing include: custom furniture, ceramic studios, glass blowing, candle making, custom jewelry, stained and leaded glass, woodworking shops, custom textile manufacturing and craft shops.

***Manufacturing, heavy*** means a use engaged in the processing or production of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions which would generate objectionable or hazardous elements such as: heat, smoke, noise, odor, vibration, water pollution, electromagnetic disturbances, radiation or dust. Heavy manufacturing uses may include uses such as a metal foundry, metal stamping plant, electrical generation plants, extraction of mineral resources in an open mine, concrete processing facility, paper manufacturing facility from raw materials, asphalt manufacturing facility, petroleum refining, private garbage incineration and animal processing and rendering plants.

***Manufacturing, light*** means a use engaged in the processing, repair, production, assembling, altering, converting, fabricating, finishing, processing or treatment of a product utilizing a relatively clean and quiet process which does not include or generate objectionable or hazardous elements such as smoke, noise, odor, vibration, water pollution or dust and which is operating and storing products and materials in a completely enclosed structure. Light manufacturing uses may include uses such as: assembly or maintenance of machinery, manufacture or assembly of cloth, wire or rubber products in a completely enclosed building, chemical mixing or storage in a completely enclosed building, microchip manufacturing, assembly of precision instruments, assembly of electronic devices, assembly of medical devices, completely enclosed machine shops, cabinet making facilities and silk screening facilities.

***Marina or boat landing*** means use providing docking and landing, moorage space, and related activities limited to the provisioning or minor repair of pleasure boats and yachts, and accessory facilities including gasoline sales and personal services.

***Market garden***. See Urban farm.

***Maximum extent practicable*** means no feasible or practical alternative exists on the site, as determined by the Community and Economic Development Director, and all possible efforts to comply with the standards of this chapter and minimize potential visual, heat, glare, harmful or adverse impacts have been undertaken by the property owner and/or applicant.

***Metes and bounds description*** means a description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by described lines or portions thereof.

***Microbrewery*** means use at which beer, fermented on the premises, is bottled and sold and where food may or may not be sold for eat in or carry out. The volume of production of such facility may not exceed one hundred thousand (100,000) gallons a year.

***Mobile home*** means a unit designed to be towed or transported and used as a residential dwelling, but does not include a unit used primarily for camping, touring or recreational purposes

***Mobile home park*** means any tract of land containing two (2) or more sites for the placement of mobile homes.

***Mobile home sales lot*** means a tract of land where mobile homes are displayed and sold including all accessory structures for office use.

***Motel***. See ***Hotel***.

***Multi-tenant building*** means any building or structure that is occupied by two (2) or more owners, renters or land uses, which is managed as a single property.

***Museum*** means a use serving as a repository for a collection of natural, scientific, or literary curiosities, works of art, or other objects of interest, that are arranged, intended and designed to be used by members of the public for viewing, with or without an admission charge.

# *N*

***Nonconforming lot*** means a lot of record that does not comply with the lot width or lot area requirements of this chapter.

***Nonconforming building or structure*** means any building or structure which was lawfully, existing under zoning ordinances preceding the effective date of this chapter or any subsequent amendments to this chapter, which do not comply with applicable regulations of this chapter.

***Nonconforming use*** means a use which lawfully, occupied a lot building or structure under zoning ordinances preceding the effective date of this chapter or any subsequent amendments to this chapter, which does not comply with use regulations of the zoning district in which it is located.

***Nursery, orchards or tree farm*** means the use of land for the establishment, care and harvesting of trees, shrubs, plants or fruit from fruit bearing trees.

***Nursing or convalescent home*** means a home in which three (3) or more persons not of the immediate family are received, kept or provided with food, shelter or care for compensation, and by reason of chronic illness or infirmity are unable to care for themselves. A hospital, clinic or similar institution shall not be construed to be included in this definition.

# *O*

***Occupancy*** means to reside in as an owner or tenant on a permanent or temporary basis.

***Off-street loading area*** means an area or space designated for the loading and/or unloading of goods into or out of motor vehicles, including loading docks.

***Off-street parking space*** means a hard surfaced area for one (1) motor vehicle with room to open doors on both sides of the motor vehicle that is directly accessible to a parking aisle if located in an off-street parking lot or area and having access to a driveway, street, alley or private street.

***Off-street parking lot or area*** means a structure and use involving an open, hard surfaced area which contains off-street parking spaces, parking aisles and driveways for the maneuvering and parking of motor vehicles which is not located in a street or alley right-of-way.

***Off-street parking lot and loading area construction*** means soil, gravel or bedrock being excavated or modified to allow for the construction of an off street parking lot and loading area, or the expansion of an existing off-street parking lot and/or loading area.

***Off-street parking lot and loading area maintenance*** means removal and replacement of existing curbing or wheel stops located in existing off-street parking lots or loading areas. Line re-striping, crack sealing, seal coating existing off-street parking lots or loading areas, including patching which means removal and replacement of fifteen percent (15%) or less than the total square foot area of the existing surface and base course with a new surface and base course.

***Off street parking lot and loading area reconstruction*** means the existing surface course and base course are removed to allow for the installation, grading and compaction of a new base and surface course with no expansion of the off street parking lot and/or loading area, including patching which means removal and replacement of greater than fifteen percent (15%) of the total square foot area of the existing surface and base course with a new surface and base course with no expansion of the off street parking lot and/or loading area.

***Off street parking lot and loading area rehabilitation*** means the following:

(a) The existing surface course is removed above the existing base course and repaved with a new surface course, including the addition of base course to existing base course, the re-grading and/or compaction of the base course with no expansion of the off street parking lot and/or loading area; and

(b) The existing surface course is pulverized, graded and/or compacted on site with a new surface course being added on top of the base course with no expansion of the off street parking lot and/or loading area.

***Off street parking lot and loading area resurfacing*** means removing a portion of the surface course but leaving at least one inch thickness of undisturbed surface course in place and adding a new layer of surface course over the undisturbed surface course with no expansion of the off-street parking lot and/or loading area.

***Off street parking lot and loading area overlay*** means adding a new layer of surface course over the existing surface course with no expansion of the off street parking lot and/or loading area.

***Office*** means a use in a building or portion of a building wherein services are performed involving predominately administrative, professional or clerical operations.

***Opaque fence*** means a solid (non-spaced) fence, alternating board on board fence, wall or exterior building wall with a gate that provides a solid or opaque barrier that blocks the transmission of light and visibility through ninety (90) percent or more of its surface area. Chain link fences and gates with slats are not considered to be opaque fences. A fence used in combination with evergreens that provide the equivalent screening as a required opaque fence may also be used to satisfy this definition.

***Open space*** means a natural or manmade landscaped area not occupied by any structures, buildings or impervious surfaces.

***Orchards, tree farms and nurseries***. See ***Nursery, orchards or tree farm***.

***Ordinary high water mark*** means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of the soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

***Ordinary maintenance and repairs, building or structure*** means internal and external painting, decorating or the repair or replacement of doors, windows, nonbearing walls, fixtures, heating components, wiring, plumbing, siding, or roof shingles of an existing building or structure, not including off-street parking lots and loading areas.

***Outdoor commercial entertainment*** means a use involving entertainment or recreation services offered outside of an enclosed building that is open to the general public for a fee. Examples include: driving ranges, miniature golf courses, Go-Kart tracks, volleyball courts, water parks, skating rinks, batting cages and amusement parks.

***Outdoor display*** means an area of designated size located outside of an enclosed permanent building or structure used in conjunction with the a business that is occupying a permanent building or structure for the display of merchandise,

goods, wares or tangible property normally sold, rented or leased within the business on the lot where the merchandise is sold, rented or leased.

***Outdoor kennel*** means a use, outside of any building or completely enclosed structure, where any person engages in the business of boarding, grooming, breeding, buying, letting for hire, training for a fee or selling of small animals.

***Outdoor sales area*** means the area of designated size located outside of an enclosed permanent building or structure where merchandise, goods, wares, articles or things are kept, displayed or sold.

***Outdoor storage*** means an area of designated size located outside of an enclosed permanent building or structure used in conjunction with the business that is occupying a permanent building or structure on the same lot for the keeping of personal or business property, goods, wares, or merchandise that are not located in that specific area for customer viewing or immediate sale, in the same place for a period of more than seventy-two (72) hours.

***Overlay zoning district*** means a district established to prescribe special regulations to be applied to a described area in combination with the underlying zoning district.

***Owner*** means a person, individual firm, association, syndicate or partnership that appears on the recorded deed of the lot.

# *P*

***Parcel***. See lot.

***Park or playground, private*** means the use of any land or open space, owned or controlled by a private or for profit entity, for passive or active recreation purposes.

***Park or playground, public*** means the use of any land or open space, owned or controlled by a governmental entity, for passive or active recreation purposes.

***Parking*** a hard surfaced area (e.g., asphalt, concrete or brick pavers) for one (1) motor vehicle with room to open doors on both sides of the vehicle that is directly accessible to an access aisle if located in a parking lot or otherwise accessible to a driveway, street or alley.

***Parking aisle*** means that area adjacent to an off-street parking space which permits maneuvering of the motor vehicles entering and leaving a off-street parking space and having access to a driveway, street, alley or private street.

***Parking facility underground*** means off-street parking spaces that is located below the finished grade of a building or located beneath a building, except for driveways. Parking ramps shall not be considered underground parking facilities.

***Parking lot*** means a use involving an open, hard surfaced area used exclusively for the temporary storage of motor vehicles.

***Parking ramp*** means a use involving a building or structure, or part thereof, composed of more than one (1) level, used or designed to be used for the parking of motor vehicles.

***Pedestrian way*** means a use of land to be used by pedestrians.

***Perimeter*** means the outer boundaries or borders of a lot, building, structure, use, or area.

***Personal services*** mean any use which caters to customers' needs, and which may include the incidental sale of products. Personal services may include barbershops, beauty shops, copying and duplicating services, dry cleaners, health clubs, pet grooming and tanning spas. Personal services shall not include adult entertainment or sexually oriented businesses.

***Personal storage facility (self storage/mini-warehouse)*** means the primary use of a building containing individual, compartmentalized and controlled access spaces, rooms or lockers that are leased, rented or owned by different individuals for the storage of individual possessions or personal property, but may include outdoor storage areas for recreational vehicles as an accessory use.

***Pervious surface*** means an area that releases, as runoff, a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or similar vegetated areas are examples of surfaces that are typically pervious.

***Place of worship*** means a use involving a building, together with its accessory structures and uses, where persons regularly assemble for religious worship and which building, together with its accessory structures and uses, is maintained and controlled by a religious body organized to sustain public worship.

***Plan, comprehensive***. See ***Comprehensive plan***.

***Plan, development*** means a report, in map and text form, including depiction of the location, purpose, type of land use, circulation pattern, primary relationship between site elements and between the proposed development and surrounding development.

***Plan, implementation*** means the final, detailed plan for a planned development (PD) that is filed following Common Council approval.

***Plan, site*** means a map or graphics, prepared to scale, depicting the development of a tract of land, including the location and relationship of the structures, streets, driveways, recreation areas, parking areas, lighting, utilities, drainage, landscaping, existing and proposed grading, walkways and other site development information as related to a proposed development.

***Planned development (PD)*** means a parcel of land or contiguous parcels of land controlled by a single landowner or by a group of landowners in common agreement as to control, to be developed as a single entity, the environment of which is compatible with adjacent parcels, and the intent of the zoning district or districts in which it is located.

***Plat*** means a minor land division (Certified Survey Map), map, graphics or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record title. The plat is a recorded, legal document and must conform to all Wisconsin Statutes.

***Portable storage unit*** means any container designed for temporary storage of property related to the owners or occupants of property and which is delivered and removed from the property.

***Printing*** means a use for the custom reproduction of written or graphic materials on a custom order basis for individuals or businesses. Typical processes may include, but are not limited to: photocopying, blueprint, in-house computer rental and facsimile sending and receiving.

***Prison or jail*** means a facility used for the incarceration of individuals who have violated federal, state or local laws.

***Private drive*** means a roadway, not maintained by the City, providing access from a public street to a parcel or building.

***Professional service*** means the use of office and other related spaces for such services as are provided by medical practitioners not intended for overnight care, dentists, attorneys, architects, real estate agents, engineers, funeral homes, banks, credit unions, savings and loan institutions, lending establishments and mortgage companies and other similar professions.

***Property line*** means the legal boundaries of a parcel of property that may or may not coincide with platted lot lines or street right-of-way.

***Public facility*** means a building and/or land owned and controlled and/or in which the use is operated by the City or other government agency, including fire stations, City Hall, public works and park facilities, library and the like.

***Public institutional use*** means a use that provides a public service to the general public such as or similar as places of worship, libraries, educational institutions, hospitals, governmental facilities, land use for public purposes.

***Public land*** means land owned or operated by municipal, school district, county, state or other governmental unit.

# *Q*

***No Definitions***.

# *R*

***Recreation facility, commercial***. See ***Outdoor commercial entertainment***.

***Recreation facility, non-profit*** means any land or facility operated by a non-profit organization and which is open to the public or members of the non-profit organization, that may include, but not be limited to, athletic fields, picnic areas and bike/hike trails.

***Recreational vehicle*** means a structure or vehicle designed to be towed, hauled or driven and used for temporary living or sleeping purposes and equipped with wheels to facilitate movement from place to place including, but not limited to: campers, motorized homes and travel trailers.

***Recycling and waste recovery center*** means a use in which recoverable resources such as newspapers, magazines, books and other paper products, glass, metal cans and other products are recycled, reprocessed and treated to return such products to a condition in which they may be used again for production.

***Recycling center*** means a use whose purpose is to collect and process recyclable materials and transfer the processed materials off site, not including a junkyard. Processing shall be limited to the preparation of material for efficient shipment by such means as compacting, flattening, crushing, mechanical sorting, cleaning and loading, all done within the confines of a building. For the purposes of this zoning ordinance, recyclable material collection shall be limited to aluminum, glass, paper or plastic.

***Recycling collection point*** means an incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items shall be allowed.

***Refuse container*** means moveable receptacle for collecting solid waste produced on-site for temporary storage until transferred for final disposal, including "dumpsters" or similar receptacles and bins.

***Registered historic place open to the public*** means any use or structure that meets one (1) of the following criteria:

(a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.

***Residential care apartment complex*** means a place where five (5) or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas, and that provides, to a person who resides in the place, not more than twenty-eight (28) hours per week of services that are supportive, personal and nursing services. "Residential care apartment complex" does not include a nursing home or a community-based residential facility, but may be physically part of a structure that is a nursing home or community-based residential facility.

***Residential care center for children and youth*** means a facility operated by a child welfare agency licensed under W.S.A. §48.60, for the care and maintenance of children residing in that facility. (Considered a community living arrangement) A residential care center for children and youth is subject to the standards listed in §23-52 of this ordinance.

***Residential use*** means the occupancy of a dwelling or dwelling unit by a family or congregate living arrangements.

***Research laboratory or testing facility*** means a use in which scientific research, investigation, testing or experimentation is conducted, but not including the manufacturing or sale of products, except as incidental and accessory to the main purpose of the facility.

***Residence***. See ***Dwelling***.

***Retail food establishment*** means an establishment required to be licensed under Wisconsin Statutes §97.30, and all other commercial enterprises, fixed or mobile, where food is processed or sold or offered for sale at retail. The term shall also include all areas and facilities of such establishments used in conjunction therewith and all vehicles and equipment utilized in conjunction therewith. It includes retail grocery stores, meat markets, poultry markets, fish markets, delicatessens, bakeries, confectionaries, ice cream shops, cheese stores, convenience marts, milk cases, spice and herb shops, temporary retail food establishments and all other establishments where food is processed or sold or offered for sale at retail.

***Restaurant (with alcohol)*** means a use involving a business establishment, with a valid liquor license issued by the City, with or without table service, within which food is prepared and offered for sale and consumption on or off the premises, to the customer, in a ready to consume state in individual serving or in non-disposable containers.

***Restaurant (without alcohol)*** means a use involving a business establishment, without a liquor license issued by the City, with or without table service, within which food is prepared and offered for sale and consumption on or off the premises, to the customer, in a ready to consume state in individual serving or in non-disposable containers.

***Restaurant, fast food*** means a use involving a business establishment whose principal business is the sale of previously prepared food, in disposable containers, directly to the consumer in a ready to consume state for consumption either within the restaurant or off-premises.

***Retail business*** means a use that provides goods, wares, merchandise and/or services directly to the consumer, where such goods are available for immediate purchase.

***Rummage sale*** means the sale of personal household goods on a property customarily used as a residence.

# *S*

***Sale of seasonal agricultural products, outdoor*** means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant displays and sells products obtained through farming or agricultural activities such as pumpkins, fruits and vegetable of all kinds. For the purpose of definition, processed or prepared food products of any kind shall not be considered as seasonal agricultural products.

***Salvage yard*** or ***junk facility*** means a use including land, buildings or structures where junk, waste, discarded, salvaged or similar materials such as old metals, wood, lumber, glass, paper, rags, cloth, cordage, barrels, containers, etc., are brought, bought, sold, exchanged, baled, packed, stored or handled, including used lumber and building materials, equipment, wrecking yards and the like. This definition shall not include automobile salvage or wrecking yards or pawnshops and establishments for the sale, storage, or purchase of secondhand vehicles, clothing, furniture, appliances or similar household goods, all of which shall be useable, nor shall it apply to the processing of used, discarded or salvageable materials incidental to manufacturing activity on the same site or to recycling and waste recovery centers.

***Screening*** means a method of visually shielding or obscuring an adjacent building, structure, use from another by fencing, walls, berms or densely planted vegetation.

***Senior care facility.*** An establishment that provides medical care or housing exclusively to the elderly. A senior care facility shall include, but not be limited to, nursing homes, independent care facilities, elderly condominiums and elderly apartments.

***Service structure*** means an accessory structure or equipment that provides support to the principal use or building on the lot. Service structures include, but are not limited to: propane tanks, trash and dumpster enclosures, electrical transformer boxes and above ground utility vaults.

***Setback*** means the required distance the exterior wall of a structure must be located from a lot line, easement, right-of way, adjacent building or other feature as indicated in this chapter.

***Sexually-oriented business.***

***Booths/Cubicles/Rooms/Compartments/Stalls.*** Enclosures that are specifically offered to the public or member of a sexually-oriented establishment for hire or for a fee as part of a business operated on the premise which offers as part of its business the entertainment to be viewed within the enclosure. This shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, "booth", "cubicle", "room", "compartment", or "stall" does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, are not open to any person other than employees nor shall this definition apply to hotels, motels or similar establishments licensed by the State of Wisconsin pursuant to Wisconsin law.

***Operator.*** Any person, partnership or corporation operating, conducting, maintaining or owning any sexually-oriented establishment.

***Predominant.*** Fifty-one percent (51%) or more of a business' stock in trade, display space, gross floor space or retail sales in any one (1) month during the license year.

***Sexually explicit material.*** Any picture, photograph, drawing, sculpture, motion picture, film or other visual representation of an image depicting uncovered or less than opaquely covered, post pubertal human genitals or pubic areas in a lewd fashion, or depicting human sexual intercourse, human or animal masturbation, bestiality, oral intercourse, anal intercourse, human-animal intercourse, excretory functions, homosexual acts, direct physical stimulation or touching of unclothed genitals or pubic areas of the human male or female, flagellation or torture by or upon a person who is nude or clad in revealing or bizarre costumes in the context of a sexual relationship or sexual stimulation. The material shall be judged without regard to any covering, which may be affixed or printed over the material in order to obscure genital areas in a depiction otherwise falling within the definition of these subsections. Works of art or of anthropological significance are not included within the definition of this paragraph.

***Sexually-oriented bookstore.*** An establishment which includes, but is not limited to, booths, cubicles, rooms or stalls for the presentation of sexually-oriented entertainment, including sexually-oriented films, movies or live performances for observation by patrons therein, or which, as part of its regular and predominant course of conduct, offers for sale, rent, trade, lease, inspection or viewing, books, films, video cassettes, magazines or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.

***Sexually-oriented cabaret.*** A building or structure which features topless dancers, strippers, male or female impersonators, or similar entertainers that display specified anatomical areas or engage in specified sexual activities as defined in this section.

***Sexually-oriented entertainment.*** Any exhibition of any motion pictures, live performances, displays or dances of any type, which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities, or exhibition and viewing of specified anatomical areas, appearing unclothed, or the removal of articles of clothing, to reveal specified anatomical areas.

***Sexually-oriented establishment.*** Any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures; or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect. An adult-oriented establishment includes, but is not limited to, adult bookstores and adult motion picture theaters.

***Sexually-oriented motion picture theater.*** An establishment which is significantly or substantially used for presenting motion picture films, video cassettes, cable television or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

***Specified anatomical areas:***

(1) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola;

(2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

***Specified sexual activities.*** Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola. Human male genitals in a discernible turgid state, even if completely and opaquely covered.
(Ord 201-11, §1, 9-27-11)

***Shelter facility*** means a temporary place of lodging for homeless individuals or families.

***Shopping center*** means a use involving a group of retail business establishments and/or service uses on a single site, under one (1) ownership, which leases spaces for separate establishments and which has common parking spaces and no lot lines between establishments.

***Showroom*** means an indoor use or the indoor portion of a building or use where merchandise is on display for consumer viewing.

***Sign*** means any device, fixture, placard, or structure that uses any writing, representation, emblem, logo, symbol, or other display illuminated or non-illuminated to advertise, announce the purpose of, or identify the purpose of a person or entity to attract attention, or to communicate information of any kind to the public, visible from any public place. Streamers, pennants, balloons and inflatable figures are not considered signs. For the purpose of removal, signs shall also include all sign structures as well as the sign itself.

***Site*** means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

***Small wind energy systems.***

(1) "Meteorological tower" (met tower) is defined to include the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, data logger, instrument wiring, and any

telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

(2) "Owner" shall mean the individual or entity that intends to own and operate the small wind energy system in accordance with this ordinance.

(3) "Micro" or small scale turbines mean turbines that are sized in order to fit on top of building and are usually less than ten (10) feet in height.

(4) "Rotor diameter" means the cross sectional dimension of the circle swept by the rotating blades.

(5) "Small wind energy system" means a wind energy system that:

a. Is used to generate electricity;

b. Has an individual wind turbine nameplate capacity of 100 kilowatts or less;

c. Has an total installed nameplate capacity of 300 kilowatts or less;

d. Has a total height of 170 feet or less;

e. Meteorological tower; and

f. Micro towers placed on buildings.

(6) "Total height" means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

(7) "Tower" means the monopole, freestanding, or guyed structure that supports a wind generator.

(8) "Wind energy system" means equipment that converts and then stores or transfers energy from the wind into usable forms of energy (as defined by the Wis. Stat. §66.0403(l)(m)). This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.

(9) "Wind generator" means blades and associated mechanical and electrical conversion components mounted on top of the tower.

(Ord 72-11, §1, 3-8-11)

***Stacking space*** means a hard surfaced area (e.g., asphalt, concrete or brick pavers) designated as an area for temporary queuing of motor vehicles.

***Story*** means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling or roof above it.

***Story, half*** means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half (½) story containing independent apartment or living quarters shall be counted as a full story.

***Street*** means a dedicated right-of-way affording primary access by pedestrians or vehicles to abutting property. Egress and ingress easements shall not be considered streets or roads.

***Street, private*** means a street that has not been accepted by the City of Appleton or other governmental agency.

***Structure*** means anything constructed or erected with a fixed location on the ground or attached or resting on something having a fixed location on the ground or anything assembled with a combination of materials to give support to

something having a fixed location on the ground, including but not limited to off-street parking lots and loading areas, buildings, walls, fences, towers, outdoor lighting fixtures, signs and billboards.

***Structure, principal*** means a structure or building in which the principal or primary use of the lot is conducted.

***Structural alteration*** means any change, other than incidental repairs, which would prolong the life of supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

***Surface course*** means the horizontal layer of hard surface material such as asphalt, concrete, brick, pervious pavers, or similar material, which supports the traffic load.

# *T*

***Tavern*** means a use, licensed by the City, to sell retail alcoholic beverages to be consumed on or off premises and which may provide dancing, entertainment and food. The term tavern shall include bar, pub, nightclub and cocktail lounge.

***Temporary contractor's offices*** means a temporary structure used as an office in conjunction with a construction project.

***Temporary merchandise sales, outdoor*** means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant or a group of temporary merchants displays and sells goods, wares and merchandise to the general public.

***Temporary merchant*** includes any individual who engages in, conducts any temporary use in this City, either in one (1) location or by moving his or her place of business from one lot to another lot in the City, displaying or selling goods, wares or merchandise, or who solicits for such trade to the general public.

***Temporary model home sales office*** means a dwelling temporarily used as a real estate office for a residential development or subdivision under construction for on-site real estate sales.

***Temporary structure*** means a structure without any foundation or footings and that is removed when the designated time period, activity, or use for which the temporary structure was erected or placed has ceased. For the purposes of this ordinance, mobile homes, travel trailers and any other structure that can be moved on wheels is considered as a temporary structure.

***Tent*** means a temporary structure constructed of fabric or pliable material supported by any manner except by air or the contents that it protects, and is open without sidewalls or drops on seventy-five percent (75%) or more of the perimeter.

***Tower and antenna for telecommunications services*** means a tower, pole, or similar structure that supports or acts as a transmission or reception device for licensed commercial wireless communications service including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

***Towed vehicle storage*** means a use that provides for the temporary storage of vehicles that have been towed, but does not include disposal, permanent disassembly, salvage or accessory storage of inoperable vehicles.

***Towing business*** means a use that provides for the removal of vehicles.

***Townhouse***. See ***Dwelling, multi-family***.

***Toxic and hazardous waste*** means waste materials as defined by the DNR and EPA.

***Truck and heavy equipment sales and rental*** means a use involving the display and temporary storage of trucks or other equipment commonly used in commercial, industrial or construction enterprises for sale, lease or rental.

# U

***Undue hardship*** as used in connection with the granting of a variance means the property in question cannot be put to any reasonable use if established under conditions required by this chapter, and, where the plight of the landowner is due to circumstances unique to his property not created by the landowner, and the variance, if approved, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if any reasonable use for the property exists under the terms of the zoning ordinance.

***Urban farm*** means the land or rooftops that are managed and maintained by an individual, group of individuals, organization or business for growing, harvesting, washing and packaging of fruits, vegetables, flowers and other plant and herb products with the primary purpose of growing food for sale and/or distribution.
(Ord 45-12, §1, 6-6-12)

***Use*** means the purpose or activity for which the land, building or structure thereon is designated, arranged or intended, for which it is occupied, utilized or maintained.

***Use, accessory*** means a use subordinate to and serving the principal use, building or structure on the same lot and customarily incidental thereto.

***Use, permitted*** means a public or private use which of itself conforms to the purposes, objectives, requirements, regulations and performance standards of a particular district.

***Use, principal*** means the primary or predominant use of any lot or parcel.

***Use, special*** means a use that is permitted in a zoning district only if a special use permit is expressly authorized by the Common Council in accordance with the provisions in this zoning ordinance.

***Use, temporary*** means a use that is established for a limited duration with the intent to discontinue such use upon the expiration of the time period. A temporary use is not a special event, which is regulated under the Municipal Code and the Special Event Policy.

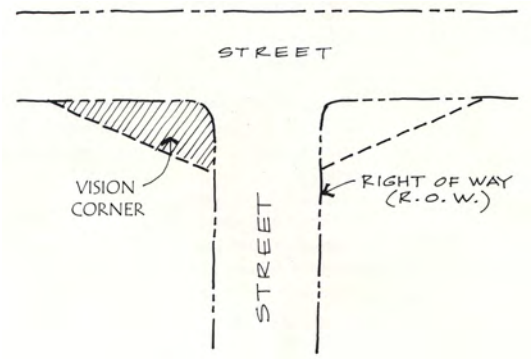
# V

***Variance*** means a modification or variation of the provisions of this chapter where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of this chapter would cause an undue hardship.

***Vehicle*** means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway including, but not limited to a recreational vehicle, except railroad trains.

***Veterinarian clinic*** means a use in a completely enclosed building, or portion thereof, designed or used for the care, observation or treatment of domestic animals by or under the supervision of a licensed veterinarian.

***Vision corner*** means triangular approach zones at street and/or driveway intersections intended to allow visibility of approaching traffic, pedestrians and bicycles and as regulated in Chapter 19, Traffic and Vehicles.




# *W*

***Warehouse*** means a use of a building or part of a building primarily involved in the indoor storage of goods and materials.

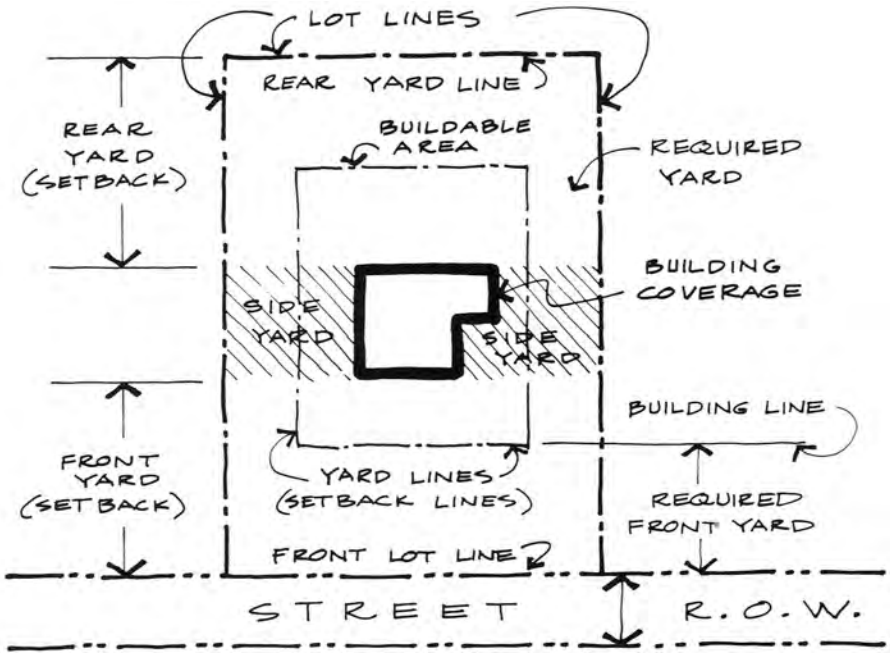
***Wholesale facility*** means a use that maintains a stock of goods, other than samples on premises, and is engaged in the resale of commodities in quantity, to businesses, industries and institutions.

# *X*

***No Definitions***.

# *Y*

***Yard*** means a required open space, on a lot between a lot line and a building or structure, which is unoccupied and unobstructed from the ground upward, except for permitted obstructions (see graphic on the following page and the Required Yard graphic).




***Yard, front*** means an open space extending the full width of the lot, between the main building and the front lot line, unoccupied and unobstructed by buildings or structures from the ground upward except as provided herein, the depth of which shall be measured as the least distance between the front lot line and the front foundation wall of the main building. (See the Required Yard graphic.)

***Yard, rear*** means an open space extending the full width of the lot, between the main building and the rear lot line, unoccupied and unobstructed by buildings or structures from the ground upward, except as provided herein, the depth of which shall be measured as the least distance between the rear lot line and the rear foundation wall of the main building. (See the Required Yard graphic.)

***Yard, side*** means an open space extending from the front yard to the rear yard, between the main building and the side lot line, unoccupied and unobstructed from the ground upward, except as provided herein, the depth of which shall be measured as the least distance between the side lot line and the side foundation wall of the main building. (See the Required Yard graphic.)

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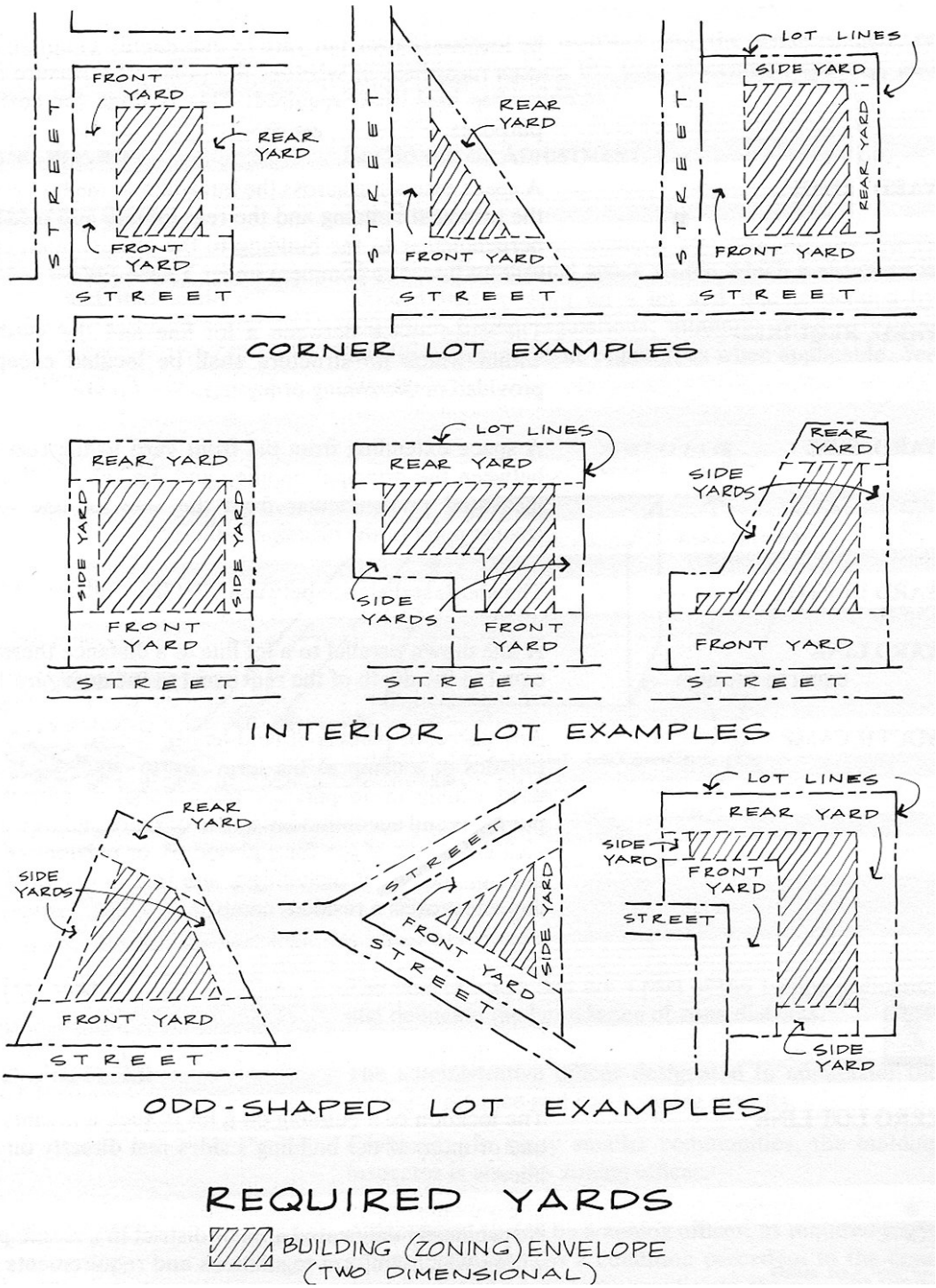
FRONT YARD
REAR YARD
FRONT YARD
STREET
STREET
REAR YARD
FRONT YARD
STREET
STREET
LOT LINES
SIDE YARD
REAR YARD
FRONT YARD
STREET
STREET
CORNER LOT EXAMPLES
REAR YARD
SIDE YARD
SIDE YARD
FRONT YARD
STREET
LOT LINES
REAR YARD
SIDE YARDS
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STREET
REAR YARD
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FRONT YARD
STREET
INTERIOR LOT EXAMPLES
REAR YARD
SIDE YARDS
FRONT YARD
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STREET
FRONT YARD
SIDE YARD
STREET
LOT LINES
REAR YARD
SIDE YARD
FRONT YARD
STREET
SIDE YARD
ODD-SHAPED LOT EXAMPLES
REQUIRED YARDS
BUILDING (ZONING) ENVELOPE
(TWO DIMENSIONAL)

# Z

***Zoning Administrator*** shall be the Inspections Supervisor.

***Zoning amendment*** means a change of the zoning map or zoning text authorized by the City, either in the allowable use within a district, in the boundaries of a district or in a change to the ordinance text.

***Zoning district*** means an area or areas within the limits of the City for which the regulations and requirements governing uses of land, premises and buildings are uniform, within which certain yards and open spaces are required and certain height limits are established for buildings.

***Zoning district, overlay***. See ***Overlay zoning district***.

***Zoning map*** means the map or maps incorporated into this chapter as a part thereof, designating the zoning districts. (Ord 121-05, §1, 10-25-05; Ord 81-07, §1, 5-8-07; Ord 86-08, §1, 5-27-08; Ord 121-08, §1, 8-12-08; Ord 141-08, §1, 10-7-08; Ord 201-11, §1, 9-27-11; Ord 202-11, §1, 9-27-11; Ord 232-11, §1, 12-27-11; Ord 44-12, §1, 6-6-12; Ord 99-12, §1, 10-9-12; Ord 68-13, §1, 8-13-13)

**Secs. 23-23 – 23-30. Reserved.**

## ARTICLE III. GENERAL PROVISIONS

### Sec. 23-31. Rules.

(a) The language set forth in the text of this chapter shall be interpreted in accordance with the following rules of construction:

(1) Any use not herein expressly permitted is hereby expressly prohibited.

(2) Sexually-oriented establishments are regulated pursuant to §23-390.

(3) The singular number includes the plural and plural the singular.

(4) The present tense includes the past and future tenses and the future, the present.

(5) The word "shall" is mandatory and the word "may" is permissive.

(6) The masculine gender also indicates the feminine and neutral genders.

(7) Words or terms defined in this Chapter shall be construed as set forth in the definition section. Any words or terms not found in the definition section shall have the meaning set forth in *The New Illustrated Book of Development Definitions* by Harvey S. Moskowitz, the State Building Code or Uniform Dwelling Code. If a word or term is not defined, it shall have the meaning set forth in the latest edition of Webster's New World College Dictionary.

(8) The word "person" shall include any firm, association, organization, partnership, trust, company or corporation, as well as an individual.

(9) The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".

(10) The words "Community and Economic Development Director" or "Inspections Supervisor" or "Director" shall include his or her designee.

(11) Application fees shall be paid as on file in the Office of the City Clerk.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96, Ord 155-02, §1, 7-23-02; Ord 203-11, §1, 9-27-11)

### Sec. 23-32. Application of this chapter.

This ordinance applies to all land and land development within the jurisdictional limits of the City of Appleton, Wisconsin.

This ordinance shall not be construed as eliminating or reducing any action now pending under, or by virtue of, an existing law or previous zoning, subdivision or related code. Furthermore, this code shall not be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue.

(a) In their interpretation and application, the provisions of this chapter shall be minimum requirements for the promotion of the public health, safety, morals, comfort, convenience and general welfare of the community.

(b) Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

(c) From and after the effective date of this chapter:

(1) The use of all land and every building or portion of a building erected, altered in respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in the City, shall be in conformity with the provisions of this chapter.

(2) Any existing building or structure and any existing use or properties not in conformity with the regulations herein prescribed, shall be regarded as nonconforming, but may be continued, extended or changed, subject to the special regulations herein provided in §23-42 with respect to nonconforming properties or uses.

(d) A nonconforming use in violation of the provisions of the zoning ordinance that this chapter supersedes shall not be validated by the adoption of this chapter unless it is in compliance in all respects.

(e) If there are found to be differences between the meaning or implication of the text of this code and any drawing, table, figure, title or section heading, the text of this code shall apply.

(f) See §23-50 for exceptions to structures that may appear nonconforming.
(Ord 61-94, §5, 5-18-94)

**Sec. 23-33. Private agreements.**

This chapter does not revoke or repeal any easement, covenant, or any other private agreements which are legally enforceable, provided that where the regulations of this chapter are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements, the requirements of this chapter shall govern.
(Ord 61-94, §5, 5-18-94)

**Sec. 23-34. Separability.**

It is hereby declared to be the intention that the provisions of this chapter are separable in accordance with the following:

(a) If any court of competent jurisdiction shall determine any provisions of this chapter to be invalid, such judgment shall not affect any other provisions of this chapter not specifically included in said statement.

(b) If any court of competent jurisdiction shall determine invalid the application of any provision of this chapter to a particular property, building, or structure, such judgment shall not affect the application of said provision to any other property, buildings or structure not specifically included in said judgment.
(Ord 61-94, §5, 5-18-94)

**Sec. 23-35. Transition rules.**

This section addresses the applicability of new substantive standards enacted by this ordinance to activities, actions, and other matters that are pending or occurring as of the effective date of this ordinance.

(a) Any application that has been filed with the Community and Economic Development Department or Inspections Division and has been determined to be fully complete by the City, prior to the effective date of this ordinance, shall be regulated by the terms and conditions of the ordinances and codes that were in place at the time of filing. However, all administrative procedures and penalties shall follow those set forth by this code.

(b) Except as noted otherwise, any application for a Zoning District Map Amendment that was filed, and has been determined to be fully complete by the City, prior to the effective date of this ordinance, shall continue through the process to completion pursuant to the terms and conditions of the ordinances and codes that were in place at the time of filing.

(c) Planned development districts in force at the time of adoption of this ordinance shall continue to be controlled under the standards of the existing planned development district until rezoned by Common Council. However, processes for approving or amending adopted final development plans, plats, certified survey maps, or site plans, shall follow the procedures of this ordinance.

(d) Any application before the Board of Appeals or any application that has been filed with the Community and Economic Development Department or Inspections Division and is fully completed, prior to the effective date of this ordinance, shall continue the process pursuant to the terms and conditions of the ordinance that were in place at the time of filing, provided that:

(1) If such application is no longer required by the terms of this ordinance, the application will be dismissed; or,

(2) If the proposed use or development requires additional approvals from the Board of Appeals pursuant to the terms of this ordinance that were not required under the previous ordinance, the application will be amended to include only those additional approvals that are now required and within the purview of the Board of Appeals.

(e) All new building sites shall meet the requirements of this ordinance unless, prior to the effective date of this ordinance:

(1) A building permit was issued and is still valid; or,

(2) A parcel was approved as a buildable lot by the Common Council, Plan Commission, Community and Economic Development Director or the Board of Appeals prior to the effective date of this code.

**Sec. 23-36. Repeal of conflicting ordinances and effective date.**

All ordinances or parts of ordinances in conflict with this zoning ordinance, or inconsistent with the provisions of this chapter, are hereby repealed to the extent necessary to give this chapter full force and effect. This chapter shall become effective on June 8, 2004.
(Ord 61-94, §5, 5-18-94)

**Sec. 23-37. Zoning districts.**

(a) The zoning districts are so designed to assist in carrying out the intents and purposes of the comprehensive plan and are based upon the comprehensive plan which has the purpose of protecting the public health, safety, comfort, convenience and general welfare. Therefore, the incorporated territory of the City of Appleton, Wisconsin, is hereby divided into the following zoning districts wherein regulations are uniform for each class or type of building or structure, or use, throughout each zoning district in order to:

(1) Classify, regulate, and restrict the location of residences, commercial establishments, industries, institutional, recreation and other land uses, and the location of buildings designed for specific uses;

(2) Assure the proper relation and conformity of new buildings and structures to the fabric of existing surrounding neighborhoods;

(3) Regulate and limit the heights of buildings and structures;

(4) Regulate the percentages of lot areas which may be covered by impervious surfaces;

(5) Establish setback lines, sizes of yards and other open spaces surrounding buildings;

(6) Regulate the density of the City of Appleton, Wisconsin; and

(7) To carry out the intent and purposes established in the VISION 20/20: Comprehensive Plan for the City of Appleton, Wisconsin.

(b) The City is hereby divided into the following zoning districts and zoning overlay districts:

| *Symbol* | *District Name* |
|---|---|
| AG | Agricultural District |
| R-1A | Single-Family District |
| R-1B | Single-Family District |
| R-1C | Central City Residential District |
| R-2 | Two-Family District |
| R-3 | Multifamily District |
| P-I | Public Institutional District |
| NC | Nature Conservancy District |
| C-O | Commercial Office District |
| C-1 | Neighborhood Commercial District |
| C-2 | General Commercial District |
| CBD | Central Business District |
| P | Parking District |
| M-1 | Industrial Park District |
| M-2 | General Industrial District |
| PD | Planned Development Overlay District |
| TND | Traditional Neighborhood Overlay District |

(Ord 61-94, §5, 5-18-94)

(c) Any land use that is not listed or that is questionable as a permitted use, accessory use or special use in the established district, where such use is proposed, is not allowed unless determined otherwise, through interpretation of this intent of the ordinance and the purpose for each individual district.

(1) The Community and Economic Development Director may determine that an unlisted or questionable use may be placed if it is significantly similar to another use that is a principal use, accessory use or as a special use.

(2) The decision of the Community and Economic Development Director may be appealed to the Plan Commission.

(3) In no instance may this interpretation be construed as a process for establishing a use variance.

**Sec. 23-38. Official zoning map.**

The Official Zoning Map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

Amendments to the Official Zoning Map may be made from time to time as provided for in §23-65, Zoning amendments, of this chapter. Such changes shall be made promptly following action by the Common Council by the Community and Economic Development Director, who shall be responsible for maintaining the Official Zoning Map. The Community and Economic Development Director shall annually provide the City Clerk with an updated and certified copy of the current Official Zoning Map.

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret due to the nature or number of changes, the Common Council may, by resolution, adopt a new Official Zoning Map that shall, to the extent possible, duplicate the accuracy of the damaged, destroyed or lost map.
(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96)

**Sec. 23-39. Rules for interpretation of district boundaries.**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(a) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines;

(b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(c) Boundaries indicated as approximately following City limits shall be construed as following such City limits;

(d) Boundaries indicated as following railroad lines shall be construed to be the centerline of the railroad right-of-way;

(e) Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines;

(f) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (e) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

(g) Boundaries indicated as dividing a lot or plot of land shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

(h) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (a) through (g) above, the Community and Economic Development Director shall interpret the district boundaries.
(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96)

**Sec. 23-40. Application of district regulations.**

(a) The regulations set by this chapter within each district shall be minimum or maximum regulations and shall apply uniformly to each class or kind of structure or land except as provided:

(1) No structure or land shall hereafter be used or occupied, and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

(2) No structure shall hereafter be erected or altered:

a. To exceed the height;

b. To accommodate or house a greater number of families;

c. To have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required; or

d. To be in any other manner contrary to the provisions of this chapter.

(3) Every building hereafter erected or moved shall be on a lot having frontage on a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and off-street parking.

(4) No more than one (1) principal building shall occupy a single lot, except where a lot or tract is in a PD district or used for multi-family, educational, institutional, motel, hotel, commercial or industrial purposes. In such cases, more than one (1) principal building may be located upon the lot or tract, provided such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located.

(5) No part of a yard or other open space or off-street parking or loading space required in connection with any building for the purpose of complying with this chapter, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building except as specified in §23-172, Off-street parking and loading standards and §23-601, Landscaping and screening standards, of this chapter.

(6) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter.

(7) Temporary structures are prohibited for use as permanent principal or accessory buildings or structures in all zoning districts, except for mobile homes.

(b) There shall not be more than one (1) zoning district on any parcel of land with the exception of the application of an overlay district which has been applied over a base zoning district and which has been approved by the City.
(Ord 61-94, §5, 5-18-94; Ord 160-94, §1, 12-21-94; Ord 142-08, §1, 10-7-08)

**Sec. 23-41. Exemptions.**

The following uses are exempt from the permit provisions of this chapter as stated below:

(a) Essential services as defined in Article II are exempted from the permit provisions of this chapter, provided that all such systems shall be placed underground when located within a residentially zoned district unless otherwise authorized by action of the Plan Commission.

(b) State installed sound barrier fences shall not require a building permit, but shall comply with the provisions of §23-43, Accessory uses and structures.

(c) Radio and television antennas not exceeding sixty (60) feet in height shall not require a building permit, but shall comply with the provisions of §23-43, Accessory uses permitted in residential and non-residential districts.

(d) Dish antennas not exceeding one (1) meter in diameter shall not require a building permit, but shall comply with the provisions of §23-43, Accessory uses permitted in residential and non-residential districts.
(Ord 61-94, §5, 5-18-94; Ord 87-08, §1, 5-27-08)

**Sec. 23-42. Nonconforming buildings, structures, uses and lots.**

(a) ***Purpose.*** Within the Zoning Districts established by this chapter, there may exist uses, buildings, structures and lots that do not conform to the applicable provisions of this chapter, the purpose of this section is to specify those circumstances and conditions under which these nonconforming uses, buildings, structures, and lots may be allowed to continue.

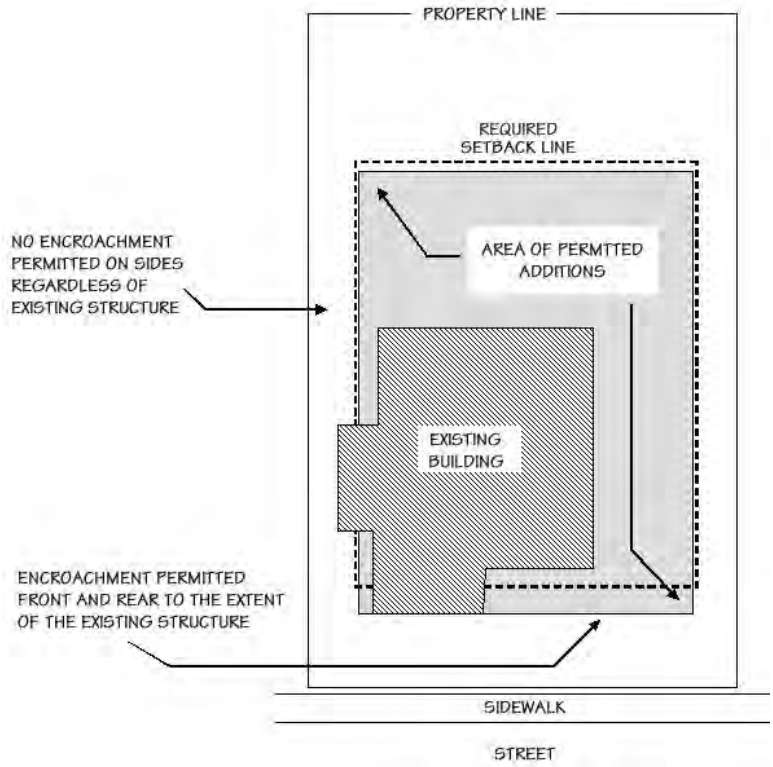
(b) ***Continuance of nonconforming principal or accessory buildings or structures.*** A nonconforming principal or accessory building or structure existing on the effective date of this chapter or subsequent amendments to this chapter may continue to exist. However, said nonconforming principal or accessory building or structure shall be subject to the following requirements:

(1) ***Principal building or structure alterations.*** Alterations within the existing footprint of a nonconforming principal building or structure may be allowed provided that the alteration does not increase the degree of the existing nonconformity(ies) of the nonconforming principal building or structure.

(2) ***Principal building or structure additions or expansions.*** Additions or expansions made to nonconforming principal buildings or structures may be permissible in the front, side and rear yards provided all of the following requirements of this subsection are complied with:

a. ***Side yard setback***. The addition or expansion shall not encroach into the required principal building or structure side yard setback and required building and/or structure separation setback of the applicable zoning district in which it is located, unless otherwise stated in this chapter;

b. ***Front and rear yard setback***. The addition or expansion shall not further encroach beyond the existing nonconforming front or rear yard setbacks of the existing nonconforming principal or structure, unless otherwise stated in this chapter;




c. ***Other requirements***. The addition or expansion shall conform with all other requirements of the applicable zoning district in which it is located and all other applicable provisions of this chapter, unless otherwise stated in this chapter.

(3) ***Accessory building or structure alterations.*** Alterations within the existing footprint of a nonconforming accessory building or structure may be allowed provided that the alteration conforms with the requirements of the applicable zoning district in which it is located, and provided the alteration conforms with all other applicable provisions of this chapter.

(4) ***Accessory building or structure additions or expansions.*** Additions or expansions made to nonconforming accessory buildings or structures may be permissible provided that all of the following requirements of this subsection are met and provided the addition or expansion conforms with all other applicable provisions of this chapter.

a. The existing accessory building or structure is not located closer than two (2) feet from the side or rear lot line.

b. The addition or expansion shall be located a minimum of five (5) feet from the principal building or structure.

c. The addition or expansion shall not result in new construction which exceeds fifty percent (50%) of the original size of the accessory building or structure or two hundred (200) gross square feet, whichever is less.

d. The addition or expansion shall not further encroach beyond the existing nonconforming front, side or rear yards setback.

(5) ***Restoration of certain nonconforming principal or accessory buildings or structures.***

a. A nonconforming principal or accessory building or structure may be restored or repaired to the size, location and use that it had immediately before damage or destruction occurred, and without regard to the cost of such restoration, repairs or improvements if both of the following apply:

1. The nonconforming principal or accessory building or structure was damaged or destroyed on or after March 2, 2006.

2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

b. The size of such nonconforming principal or accessory building or structure or to which this subsection applies may be enlarged if such enlargement is made necessary for the principal or accessory building or structure to comply with applicable state and federal requirements.

(6) ***Relocation of a principal or accessory building or structure***. No principal or accessory building or structure shall be moved, or placed in whole or in part, to any other location on the same or any other lot unless every portion of such building or structure which is moved or placed and, the use thereof, conforms to all of the requirements of the applicable zoning district in which it is located, and provided the principal or accessory building or structure conforms with all other applicable provisions of this chapter.

(7) ***Principal or accessory building and structure ordinary maintenance and repairs***. Ordinary maintenance and repairs within the existing footprint of a nonconforming principal or accessory building or structure may be allowed provided that the ordinary maintenance and repair does not increase the degree of the existing nonconformity(s) of the nonconforming principal or accessory building or structure.

(8) ***Nonconforming parking lots or loading areas.*** A nonconforming off-street parking lot or loading area existing on the effective date of this chapter or subsequent amendments to this chapter may continue to exist. However, said nonconforming off-street parking lot or loading area shall be subject to the following provisions:

a. The maintenance, overlay, resurfacing, rehabilitation, reconstruction or expansions to a nonconforming off-street parking lot or loading area shall not increase the degree of the existing nonconformity(ies) of the nonconforming off-street parking lot and/or loading area.

b. Wherever possible, when rehabilitation or reconstruction occurs to a nonconforming off-street parking lot or loading area, all applicable off-street parking lot and/or loading area standards governing design, interior landscaping, perimeter landscaping and required amount of parking and loading spaces identified in this chapter shall be complied with. Sites that are physically constrained from complying with all aforementioned off-street parking lot and/or loading area standards shall comply to the maximum extent practicable, as determined by a site plan review pursuant to §23-570.

c. An expansion of a nonconforming off-street parking lot or loading area shall require that the expanded portion conform to the all applicable provisions of this chapter.

(c) ***Continuance of nonconforming use of building, structure, or land.*** The nonconforming use of a building structure or land existing on the effective date of this chapter or subsequent amendments to this chapter may be continued. However, said nonconforming use of a building, structure or land shall be subject to the following requirements:

(1) ***Change in tenancy or ownership.*** A historically allowed nonconforming use of a building, structure or land may be transferred to a new tenant or owner provided; that the historically allowed nonconforming use is not expanded, relocated or discontinued as identified in subsections (2), (3) and (5) of this section.

(2) ***Expansions***. The nonconforming use of a building, structure or land shall not be enlarged or expanded, unless otherwise specified in this chapter.

(3) ***Relocation***. No nonconforming use of a building, structure or land shall be moved or placed in whole or in part to any other portion of the lot, parcel or site than was occupied by such use at the time of the effective date of this chapter or subsequent amendments to this chapter.

(4) ***Ordinary maintenance and repairs.***

a. Ordinary maintenance and repairs required to keep a building, structure or use in a safe condition, or when necessary to comply with state or local building codes or property maintenance requirements may be allowed provided that ordinary maintenance and repair conforms with the applicable requirements of this chapter, and there is not an identifiable change in or expansion of the historically allowed nonconforming use.

b. Off-street parking lot and loading area maintenance, overlay, resurfacing or rehabilitation may be allowed provided that maintenance, overly, resurfacing or rehabilitation activity conforms with the applicable requirements of this chapter and there is not an identifiable change in or expansion of the historically allowed nonconforming use of land as a parking lot or loading area use.

(5) ***Discontinuance of nonconforming use.*** The nonconforming use of a building, structure or land which has been discontinued for a period of twelve (12) consecutive months, shall be deemed abandoned and the future proposed use of the building, structure or land shall be in conformity with the use requirements of the applicable zoning district in which it is located.

(d) ***Establishing the existence of a nonconforming use.*** The burden of proof that a nonconforming use of structure, building or land existed on the effective date of this chapter or subsequent amendments to this chapter shall be the responsibility of the property owner. Any property owner requesting to have a nonconforming use validated under the terms of this chapter or subsequent amendments to this chapter, shall make a request to the Inspections Supervisor for the issuance of a Certificate of Occupancy in accordance with this subsection.

(1) ***Certificate of Occupancy for a nonconforming use.*** In order to have a nonconforming use of structure, building or land validated under the terms of this chapter or subsequent amendments to this chapter, the property owner may request a certificate of occupancy be issued from the Inspections Supervisor. The property owner shall present historical data to the Inspections Supervisor that demonstrates the nonconforming use occupied the land, building or structure in conformance with the use regulations of the applicable zoning ordinance(s) preceding the effective date of this chapter or any subsequent amendments to this chapter and did not discontinued for a period of twelve (12) consecutive months between the time the use became nonconforming and the date when the request for a certificate of occupancy is submitted to the Inspections Supervisor.

a. The decision of the Inspections Supervisor as to issue or not issue a certificate of occupancy shall be based upon the information provided by the property owner of the property on which the nonconforming use is located and on any other information available to the Inspections Supervisor as public record. Information may include, but shall not be limited to historical data related to building permits, certificate of occupancy permits, licenses, tax records, sales receipts, business records, photographs, site plans, utility information, assessment information, inspection records, affidavits from the owner or neighboring property owners who have knowledge of the existence of the use.

(e) ***Nonconforming due to public acquisition.*** When the federal, state, county or city government acquires land for public use including dedication, condemnation or purchase, the affected property or structure shall not be considered nonconforming if the property or structure was conforming prior to the federal, state, county or city government's action. All affected properties or structures shall be documented in the Inspections Division. This will be effective as of June 1, 1996 and not be retroactive.

(f) ***Nonconforming lots of record.*** Nonconforming lots of record existing on the effective date of this chapter or subsequent amendments to this chapter, may be built upon, under the following conditions and provided all other applicable provisions of this chapter are met.

(1) The minimum side and rear yard setbacks shall be proportionally applied as based on the proportion that the nonconforming lot is smaller than the minimum lot size required in the zoning district the lot is located. Fractional numbers shall be rounded up to the nearest whole number.

(2) In no case, however, shall a side yard setback be less than five (5) feet.

(3) The minimum front yard setback shall be as established by the zoning district in which the lot is located without reduction unless abutting structures are closer to the front lot line. In that case, the adjusted front yard setback shall be the average of the existing front yard setbacks of the abutting structures on each side.

(4) All other applicable development standards of the zoning district shall be complied with.

**Example**:

Minimum district lot size – 8,000 square feet.

Existing lot size – 6,000 square feet.

Minimum district yard setbacks:

Front – Twenty (20) feet

Side – Eight (8) feet

Rear – Twenty-five (25) feet

Existing lot size is seventy-five percent (75%) the size of the minimum district lot size: (6,000/8,000) = 0.75

Apply the seventy-five percent (75%) to side and rear yard setback requirements of the district:
0.75 X 8' = 6'
0.75 X 25 = 18.75'

Adjusted minimum side yard setback requirement is six (6) feet and adjusted minimum rear yard setback requirement is nineteen (19) feet.

(Ord 88-08, §1, 5-27-08; Ord 233-11, §1, 12-27-11)

**Sec. 23-43. Accessory uses, buildings and structures.**

(a) ***Authorization.*** Accessory uses, buildings and structures are permitted in any district in connection with any principal use lawfully existing within such district.

(b) ***Purpose.*** Authorization and limitation of specific accessory uses, buildings and structures in the appropriate districts is required to accommodate accessory activities with sufficient impact to require public regulation and having such a relationship to certain principal uses as to require accommodation within the same district.

(c) ***Permitted accessory uses and structures.*** Accessory uses, buildings and structures include, but are not limited to, the following:

(1) Attached garages, attached carports, detached accessory buildings such as detached garages, detached carports, storage sheds, tool/garden sheds, gazebos, children's play houses, pavilions or similar buildings.

(2) Decks and patios.

(3) Parking lots, loading docks, refuse containers and dumpster enclosures.

(4) Swimming pools and pool houses including, but not limited to, pool service structures, pumping equipment, and filtering equipment accessory to a principal building and limited to use by the occupants thereof and their guests. (See Chapter 4, of the Municipal Code Article VII. Swimming Pools)

a. All pool service structures, including, but not limited to, pumping equipment, and filtering equipment shall be screened from view of adjacent properties to the maximum height of the unit.

(5) Tennis courts, basketball courts or similar recreational facilities accessory to a principal building or use and limited to use by the occupants thereof and their guests. Fixed lighting shall be so arranged to prevent a direct view of the lamp or reflection device from adjacent property.

(6) Building management offices when limited to the management of the building in which such office is located or a complex of buildings forming an integrated development of which such building is a part.

(7) Transformer boxes may be permitted in the front yard provided that:

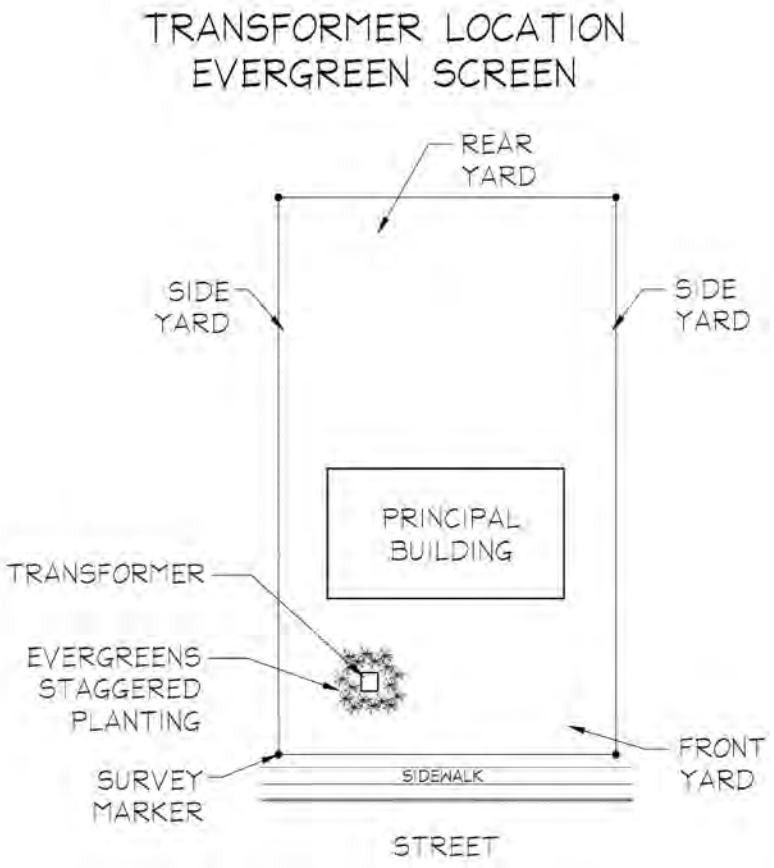
a. If the box exceeds five (5) feet wide by five (5) feet long by four (4) feet in height the box shall meet the minimum front yard setback of the zoning district in which it is located.

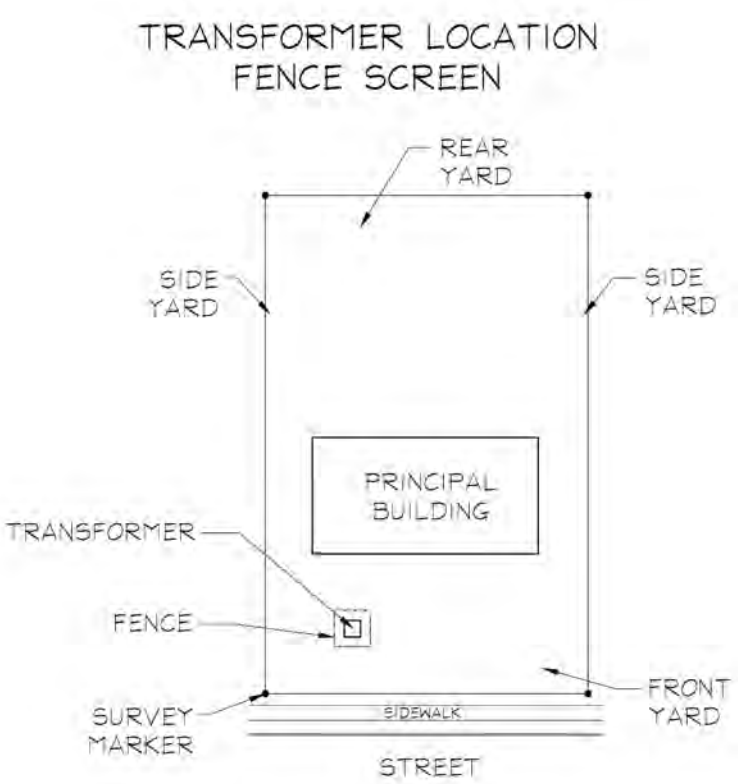
b. If the box is smaller than five (5) feet wide by five (5) feet long by four (4) feet in height, the box may be located anywhere in the front yard.

c. The box shall be screened in accordance with §23-601(f)(22) where visible from the public right-of-way.

d. The access door to the box is encouraged to be located opposite the side facing the public right-of-way.

e. The Diggers Hotline is contacted prior to the siting of the box.






(8) Radio, satellite, and television antennas not exceeding sixty (60) feet in height do not require a building permit, but are subject to the following:

a. Radio and television antennas:

1. Antennas in residential zones that are roof-mounted shall not extend higher than twenty-five (25) feet above the peak of the roof, except a single-vertical pole antenna may extend to thirty (30) feet above the peak of the roof.

2. Not more than one (1) ground-mounted antenna shall be permitted on any lot and shall be erected or maintained to the rear of the main building in all districts. No portion of a ground-mounted antenna or its guy wires may extend into a required setback area for an accessory structure.

3. The antenna including guy wires, supporting structures and accessory equipment shall be located and designed so as to minimize the visual impact on surrounding properties and from public streets. The materials used in constructing the antenna should not be unnecessarily bright, shiny, garish or reflective.

4. Antennas shall be installed to meet all structural specifications of the manufacturer. All components and materials shall be noncombustible and corrosive-resistant. Self-designed and homemade supporting structures for antennas subject to this chapter shall require engineering and/or design analysis by a registered engineer prior to installation.

5. Clearance of antennas or any supporting guy wires from power or communication lines shall be regulated by Volume 1 of the Wisconsin State Electrical Code.

b. Satellite dish antennas:

1. Satellite dish antennas may either be ground-mounted or roof-mounted, but shall maintain standards as required in Section 23-43(c)(8)a.1. through 5. of this section. Dish antennas over three (3) feet in diameter shall require a building permit.

2. The maximum height of a ground mounted satellite dish shall be ten (10) feet.

3. Ground-mounted satellite dishes over three (3) feet in diameter shall be setback a minimum distance equal to its height. In no case, however, shall the satellite dish be erected any closer than the setback line of the principal structure.

4. Roof mounted satellite dishes shall not exceed the roof height by more than four (4) feet.

5. Satellite dishes shall be of one color that is compatible with its surroundings.

6. No advertising, logo or corporate symbols other than that of the dish manufacture shall be permitted on the dish.

(9) Home garden.

(d) ***General regulations for accessory uses, buildings and structures.*** All accessory uses, buildings and/or structures shall abide by the following general regulations:

(1) No accessory use, building and/or structure shall be constructed or established on a lot prior to the principal use or building being present or under construction.

(2) When attached to the principal building, accessory buildings and/or structures shall comply with all requirements of this chapter applicable to the principal building, unless otherwise stated, including, but not limited to setback requirements, building height limits, maximum lot coverage standards.

(3) No truck, truck tractor, truck trailer, canopy or bus, or portion thereof, shall be used for, storage purposes, as a principal use and/or structure or an accessory use and/or structure in any zoning district, unless otherwise stated in this chapter.

(4) Accessory uses, buildings and/or structures, shall not contain toilet facilities, unless specifically authorized by the Board of Appeals

(5) Accessory uses, buildings and/or structures shall be located on the same lot as the principal use, structure or building.

(6) Only one (1) detached garage or detached carport shall be permitted on a lot whose principal use is a single or two-family dwelling.

(7) Detached accessory buildings shall not be used as a secondary dwelling.

(e) ***Use Restrictions.*** All accessory uses, buildings and/or structures shall abide by the following use restrictions:

(1) *When associated with Residential Dwellings.*

a. The enclosed parking or storage of any motor vehicle within an attached garage, attached carport, detached garage, and/or detached carport shall be restricted to vehicles owned or leased by the occupant(s) of the lot upon which the vehicles are parked or stored.

b. The enclosed parking or storage of not more than one (1) commercial or service vehicle rated at Class A-D may be permitted within an attached garage, attached carport, detached garage, and/or detached carport, provided that such vehicle is used by the occupant(s) of the lot upon which the vehicle is parked or stored.

c. The outdoor parking or storage of not more than one (1) commercial or service vehicle rated at Class A-D or school bus, may be permitted, provided that such vehicle is parked or stored in the side yard and/or rear yard only and used by the occupant(s) of the lot upon which the vehicle is parked or stored. (Also see §19-91 of the Municipal Code)

d. The outdoor parking or storage or enclosed parking or storage within a fully enclosed structure of not more than one (1) trailer or recreational vehicle including, but not limited to, boat and boat trailer (except for boats or boat trailers greater than twenty-six (26) feet in length), pickup camper top, camping trailer, utility trailer, camping vehicle, snowmobile and trailer, jet-ski and trailer, motor home or fishing shanty, may be permitted provided:

1. Such trailer or recreational vehicle is owned or leased by the occupant(s) of the lot upon which the trailer or recreational vehicle is parked or stored.

2. Such trailer or recreational vehicle shall not be used for business, living, sleeping or housekeeping purposes. (Also see §19-92 of the Municipal Code)

3. The outdoor parking or storage of such trailer or recreational vehicle shall be located in the side yard and/or rear yard only. (Also see §19-91 and §19-92 of the Municipal Code)

4. Such trailer or recreational vehicle shall not be permanently connected to sewer lines, water lines or electricity.

5. Such trailer or recreational vehicle shall not be used for the storage of goods, materials or equipment not normally a part of or essential for immediate use in that vehicle or trailer.

(2) *When associated with Non-Residential Dwelling.*

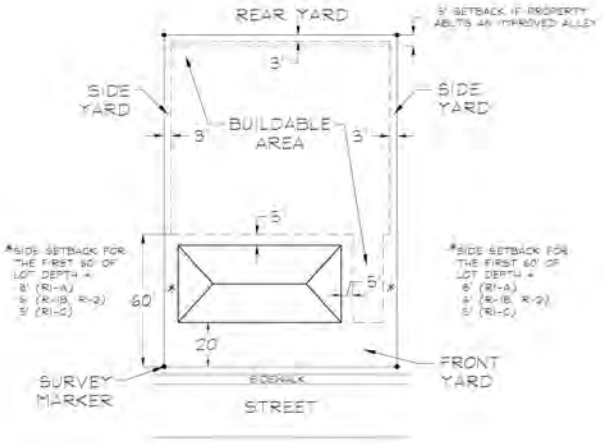
a. The enclosed parking or storage of any motor vehicle within an attached garage, attached carport, detached garage, and/or detached carport shall be restricted to vehicles used by the occupant(s) of the lot upon which the vehicles are parked or stored.

(f) ***Setback, height and lot coverage restrictions.*** Accessory buildings and/or structures, shall meet the following setback, height and lot coverage requirements:

(1) *Residential districts:*

a. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain a five (5) foot separation from a principal building or any other accessory building and/or structure on the same lot.

BUILDABLE AREA FOR ACCESSORY BUILDINGS AND/OR STRUCTURES ON A TYPICAL INTERIOR LOT WITH FRONTAGE ON ONE STREET – RESIDENTIAL DISTRICTS

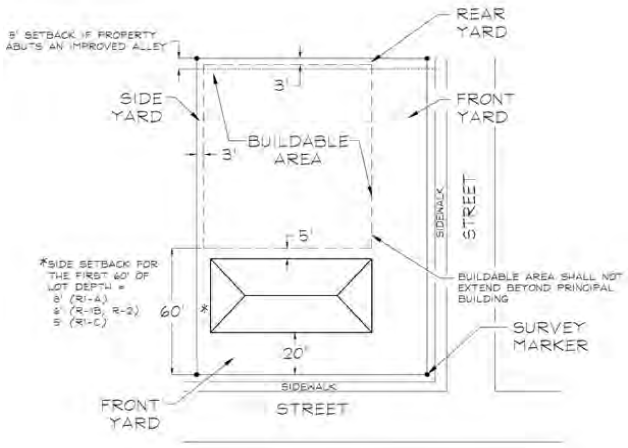


b. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain the same side yard setback required of the principal building for the first sixty (60) feet of lot depth and a minimum of three (3) feet from the side lot line thereafter.

c. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain a minimum setback of three (3) feet from the rear lot line, except along an improved public alley where a minimum of a five (5) foot setback is required.

d. When not attached to the principal building, on corner lots, accessory buildings and/or structures, except for parking lots and driveways shall maintain a minimum of a three (3) foot setback from the side and rear lot line. However, for the yard that is abutting a street, the accessory building and/or structure shall meet the principal building front yard setback requirement of the abutting property.

BUILDABLE AREA FOR ACCESSORY BUILDINGS AND/OR STRUCTURES ON A TYPICAL CORNER LOT – RESIDENTIAL DISTRICTS




e. When not attached to the principal building, accessory structures, except for parking lots and driveways shall be prohibited in the front yard, unless otherwise stated in this chapter.

f. When not attached to the principal building, accessory structures, except for radio, television and satellite dish antennas, shall not exceed twenty (20) feet in height.

g. When not attached to the principal building, accessory structures that exceed fifteen (15) feet in height, shall be located on the lot in accordance with the setback requirements of the principal building, as established for the zoning district in which it is located.

h. Detached accessory buildings shall not exceed fifteen (15) feet in height and shall not exceed one (1) story in height.

i. Accessory buildings located on a R-1A, R-1B, R-1C or R-2 zoned lot shall comply with all of the following size requirements:

1. Attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.

2. Detached accessory buildings: the maximum total combined gross floor area of all detached accessory buildings including, but not limited to, detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be one thousand six hundred (1,600) square feet.

3. Attached accessory buildings: the maximum total square footage allowed for all attached garages, attached carports or any attached accessory building may not exceed a total of one thousand six hundred (1,600) square feet or thirty-five percent (35%) of the total gross area of the principal building, whichever is greater.

4. The total combined gross floor area of all attached garages, attached carports, and/or detached accessory buildings including, but not limited to, detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed the total gross floor area of the principal building.

j. Accessory structures located on a R-1A, R-1B, R-1C or R-2 zoned lot shall comply with the following size requirements:

1. Accessory structures including, but not limited to parking lots, driveways, patios, decks, tennis courts, basketball courts or other similar courts and swimming pools shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.

k. Accessory buildings located on a R-3 zoned lot shall comply with all of the following size requirements:

1. Attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.

2. The maximum total combined gross floor area of all attached garages, attached carports, and/or all detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed fifteen percent (15%) of the lot area.

3. The total combined gross floor area of all attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed the total gross floor area of the principal building(s).

l. Accessory structures located on a R-3 zoned lot shall comply with the following size requirements:

1. Accessory structures including but not limited to dumpster enclosures, parking lots, driveways, patios, decks, tennis courts, basketball courts or other similar courts and swimming pools shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.

(2) *Non-residential districts:*

a. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain a minimum five (5) foot setback from the side and rear lot lines unless abutting a residential district. When abutting a residential district, the setback for side and rear lot lines shall be a minimum of the accessory building or structure height.

b. Accessory buildings located on an AG, P-I, NC, C-O, C-1, C-2, CBD, P, M-1, or M-2 zoned lot shall comply with all of the following size requirements:

1. Attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.

2. The maximum total combined gross floor area of all attached garages, attached carports, and/or all detached accessory buildings including but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed twenty-five percent (25%) of the lot area.

3. The total combined gross floor area of all attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed the total gross floor area of the principal building(s).

c. Accessory structures located on a AG, P-I, NC, C-O, C-1, C-2, CBD, P, M-1, or M-2 zoned lot shall comply with the following size requirements:

1. Accessory structures including, but not limited to loading docks, refuse containers, dumpster enclosures, parking lots, driveways, patios, decks, tennis courts, basketball courts or other similar courts, and swimming pools shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.

d. When not attached to the principal building, accessory buildings and/or structures in non-residential districts shall not exceed twenty-five (25) feet in height.

e. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall be prohibited in the front yard, unless otherwise stated in this chapter.

(Ord 121-05, §1, 10-25-05, Ord 89-08, §1, 5-27-08; Ord 117-08, §1, 6-24-08; Ord 122-08, §1, 8-12-08; Ord 143-08, §1, 10-7-08; Ord 84-09, §1, 6-23-09; Ord 46-12, §1, 6-6-12)

**Sec. 23-44. Fences and walls.**

(a) ***Fences and walls.*** Fences and walls are subject to the provisions of this section.

(1) ***Height***

The height of fences and walls shall be measured at grade.

a. **Boundary fence.** A boundary fence or wall shall not be more than six (6) feet in height in residential districts and not more than twelve (12) feet in commercial and industrial districts, except that hedges may be permitted to grow to their natural height. No boundary fence or wall, including a hedge or row planting, shall be permitted in excess of three (3) feet in height between the front yard setback line and the abutting lot lines.

b. **Sound barrier/privacy fence or wall on an arterial/collector roadway.** A sound barrier/privacy fence or wall constructed in a board-to-board or stone, masonry or brick and mortar style may be erected that prevents sound penetration and decreases the noise levels along the back or side lot line of a residential property abutting an arterial or collector street that has access restrictions and that is posted at no more than forty-five (45) miles per hour, shall not exceed eight (8) feet in height.

c. **Sound barrier fence or wall on a freeway roadway.** A sound barrier fence, wall or combination of fence and berm or wall and berm constructed in a board-to-board or stone, masonry or brick and mortar style may be erected that prevents sound penetration and decreases the noise levels along the back or side yard abutting a highway that is posted with a speed greater than forty-five (45) miles per hour shall not be less than fourteen (14) feet nor more than twenty (20) feet in height, as measured from the grade of the adjacent major roadway. Plans from a state certified engineer/architect that assure structural integrity may be required by the Community and Economic Development Director for fences higher than eight (8) feet

(2) ***Materials.***

a. Barbed wire fences, electrical fences, and single, double and triple strand fences are prohibited except in the AG agricultural, M-1 and M-2 industrial districts.

b. For all zoning districts other than AG, fence material must be either naturally resistant or treated wood board, vinyl, galvanized and/or vinyl coated chain link material, wrought iron, brick, natural stone, masonry, or other material as approved by the Community and Economic Development Director. Chain link fence slats are subject to provisions of this ordinance.

c. Fences and walls located in the front yard must be made of materials such as wood, brick, vinyl or stone.

d. The finished side of the fence shall be erected to face the adjoining property. The side with protruding studs or posts shall face the building of the lot responsible for the erection of the fence.

e. Fences used for screening purposes for non-residential uses shall be subject to Crime Prevention Through Environmental Design (CPTED) standards. CPTED standards are reviewed and are available through the Appleton Police Department.

(3) ***Exceptions.***

Protective security and boundary fences on industrial sites, publicly owned lands or semi-private lands such as places of worship, educational institutions, utility substations, etc. are excluded from the provisions of this section, except that where such fences incorporate the use of barbed wire, such barbed wire shall not be less than seven (7) feet above the ground level, and except such fences shall be a minimum of two-thirds (2/3) open to vision equally distributed throughout the fence length, and maintain allowable height when located within the defined vision corner.

(4) ***Setback.*** No fence shall extend closer than five (5) feet from the right-of-way line of an improved public alley.

(5) ***Vision corner.*** Fences and walls shall comply with vision corner requirements of §23-50(f), Vision corner.

(6) ***Maintenance.*** Both the fence and the property surrounding both sides of the fence shall be properly maintained at all times.

(Ord 61-94, §5, 5-18-94; Ord 161-94, §1, 12-21-94; Ord 58-95, §1, 5-3-95; Ord 76-95, §1, 6-21-95; Ord 72-96, §1, 8-7-96; Ord 106-96, §1b, 11-6-96; Ord 25-98, §1, 3-18-98, Ord 27-99, §1, 4-24-99; Ord 121-05, §1, 10-25-05)

**Sec. 23-45. Home occupations.**

(a) ***Purpose.*** The purpose of this section is to provide regulations for limited non-residential uses that are conducted by an occupant of a dwelling which are compatible with the surrounding residential properties.

(b) ***Permit required.*** A home occupation permit is required for all home occupations conducted in an attached or detached garage pursuant to the procedures set forth in this section prior to the establishment of a home occupation.

(c) ***Permit application.*** Applications for home occupations conducted in an attached or a detached garage shall be filed with the Community and Economic Development Department on the forms available in the Community and Economic Development Department.

1. Each application shall be accompanied by a scaled site plan drawing showing the property lines and dimensions, location of all existing buildings/structures, location and number of on-site parking spaces for customers, employee and residence vehicles and the location and size of the home occupation.

2. Other information and plans as may be required by the Community and Economic Development Director or designee to determine whether a home occupation permit application should be approved, conditionally approved, or denied. The Community and Economic Development Director or designee may also authorize omission of any information or plans if he or she finds they are not necessary.

(d) ***Action upon acceptance of a permit application.***

(1) After acceptance of a complete application, the Community and Economic Development Director or designee shall forward each application for a home occupation permit to the Inspections Division, Health Department, Fire Department, and Police Department. An authorized representative from each department shall review each application for a home occupation, insofar as the application relates to their respective department's duties based upon the City of Appleton Municipal Code, to determine whether the application for a home occupation complies with the ordinances and laws applicable thereto. These representatives shall furnish the Community and Economic Development Director or designee, in writing, their recommendation as to whether an application for a home occupation should be approved, approved conditionally, or denied within five (5) business days after the application has been accepted by the Community and Economic Development Director or designee.

(2) Within ten (10) business days after acceptance of a complete application and after notification to the City departments listed above, the Community and Economic Development Director or designee shall approve, approve with conditions, deny such home occupation permit.

(3) If there is recommendation for denial, the Community and Economic Development Director or designee shall reject such home occupation permit in writing to the applicant stating the reasons for denial.

(e) ***Permit not transferable.*** The home occupation permit shall not be transferred to any individual, firm or another address, nor shall the permit authorize any person, other than the person named therein, to commence or carry on the home occupation for which the permit was issued.

(f) ***Violations; penalty.*** Failure to comply with the approved or conditionally approved home occupation permit or the provisions of this chapter, or failure to obtain a home occupation permit shall be a violation of this section. Administration and enforcement shall be as prescribed in §23-69 of this chapter.

(g) ***General regulations.*** All home occupations shall comply with the following standards:

(1) ***Location.*** A home occupation shall be clearly incidental and subordinate to the use of the premises as a dwelling, and shall be conducted entirely within the residential dwelling unit or entirely within either the attached or detached garage, but not both by a member of the family residing on the premises.

(2) ***Square footage of the home occupation.***

a. ***When located within the dwelling.*** The total area used for the home occupation within the dwelling shall not be more than three hundred (300) square feet or thirty percent (30%) of the habitable dwelling area, whichever is less.

b. ***When located within a detached or attached garage.*** The total area used for the home occupation shall take up no more than three hundred (300) square feet or thirty percent (30%) of the gross floor area of the attached or detached garage, whichever is less.

(3) ***No change to the character of the dwelling unit or garage.*** No internal or external alterations or construction of the premises are involved, including the creation of a separate or exclusive business entrance, and there shall be no other exterior indication that a home occupation exists, except as provided in this section.

(4) ***Nuisances.*** No equipment shall be used which creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-rays or electrical disturbance to radio or television transmission in the area that would exceed what is normally associated with a residential use.

(5) ***Vehicle restrictions.*** Only one (1) vehicle shall be permitted to be located at the residence in conjunction with the home occupation. The home occupation vehicle must be of a type ordinarily used for conventional passenger transportation (i.e., passenger automobile or vans and pickup trucks not exceeding a payload capacity of one (1) ton).

(6) ***Outdoor display or storage.*** No outdoor display or storage of materials, goods, supplies or equipment shall be allowed at the residence in conjunction with the home occupation.

(7) ***Sign restrictions.*** A home occupation use shall be limited to one (1) non-illuminated wall sign that does not exceed two (2) square feet in area.

(8) ***On-premise sales/rental.*** Sale and/or rental of products is permitted on an appointment basis only.

(9) ***Employee restrictions.*** Only one (1) person may be employed on the site in connection with the home occupation who is not an actual resident of the dwelling unit.

(10) ***Client visitation restrictions.*** There shall be no business visits and/or nonresident worker arrivals or departures allowed before 8:00 a.m. or after 8:00 p.m. Clients in conjunction with the home occupation will be limited to no more than ten (10) per day. No more than two (2) clients may visit at one (1) time.

(11) ***Off-Street parking requirements.***

a. Off-street parking spaces shall be available for clients and employees.

b. Off-street parking spaces for the dwelling shall be maintained as required by this chapter.

(12) ***Deliveries.*** Deliveries to the home occupation shall be made by passenger vehicles, mail carriers, or step vans (UPS, Federal Express).

(13) ***Garage operation restrictions.*** All doors and windows of the attached or detached garage shall be kept closed at all times during the hours of operation of the home occupation, except when entering and exiting.

(h) ***Permitted home occupations.*** A home occupation may include or include similar uses such as the following, provided that the provisions of this chapter are met: professional office uses such as accountant, appraiser, architect, attorney, broker or agent (real estate, insurance, etc.) counselor, market research service, engineer, interior decorator, home crafts such as tailoring, sewing, dressmaking, quilting, making of jewelry or arts and crafts, artists and sculpting, blade sharpening of household hand and power tools such as mower blades, saw blades, drill bits, axes, chain saws, scissors, kitchen knives, or hedge clippers, office for contractor, handyperson, landscape contractor, tutoring of individuals, music instruction, direct sale product distribution (Avon, Tupperware, etc.), internet consulting and/or sales or writers.

(i) ***Prohibited home occupations.*** A home occupation shall not include or include similar uses such as the following: barbershops, beauty shops, service, repair, or painting of automobiles, trailers, recreational vehicles, boats, and snowmobiles, paint shops, welding, antique shops, landscaping businesses, medical clinics, retail food or wholesale food establishments requiring a state license, small engine repair, appliance repair or resale, palm reading, nail salon, pet grooming, kennels, hair wrapping, acupuncture, tattoo and body piercing, fitness center, aerobic exercise studios, restaurants or massage therapy. This list is illustrative, not exhaustive of all prohibited uses.
(Ord 61-94, §5, 5-18-94; Ord 121-05, §1, 10-25-05; Ord 29-11, §1, 1-25-11)

**Sec. 23-46. Outdoor storage and display in non-residential districts.**

The following regulations shall apply to outdoor storage or displays in non-residential districts:

(a) The outdoor display of goods including items such as firewood and mulch shall be controlled by the following regulations:

(1) The outdoor display of merchandise shall not interfere with off-street parking spaces or the safe and unobstructed use of vehicular, emergency, or pedestrian access ways or walkways.

(2) The outdoor display of merchandise outside of the adjacent building shall not be located in any required setback on the lot.

(3) Outdoor display of merchandise shall not be displayed at a height greater than seven (7) feet from the surface on which the merchandise is being displayed, except when the outdoor display of merchandise is displayed on a shelving or storage rack system.

(4) All permitted outdoor display shall be maintained in a neat and orderly fashion.

(b) The outdoor storage of business property, goods, wares or merchandise that is not located in a specific area for customer viewing or immediate sale shall be controlled by the following regulations:

(1) The outdoor storage areas shall not interfere with off-street parking spaces or the safe and unobstructed use of vehicular, emergency, or pedestrian access ways or walkways.

(2) Outdoor storage areas shall not be located in any established front yard, required side or rear setback area on the lot. However, in the case of a double frontage lot, outdoor storage may be located in the established front yard opposite the front yard from which the principal structure is addressed.

(3) Outdoor storage areas shall be required to be screened with an alternating board on board fence, chain link fence with tubular PDS slats or a wall. Such PDS slats or wall shall complement the exterior color of the principal building.

(4) All permitted outdoor storage shall be maintained in a neat and orderly fashion.

**Sec. 23-47. Refuse container and dumpster enclosure standards.**

The following standards shall apply to refuse container and dumpster enclosures:

(a) Refuse containers and dumpster enclosures of appropriate size are required for all non-residential and multifamily properties. These are required to be located outside of the street right-of-way and front yard. Refuse containers and dumpster enclosures shall be designed for front end loading trucks.

(b) Refuse containers and dumpster enclosures shall be located at the rear or side of the building, screened from public view, and easily accessible for refuse pickup. A dumpster must have at least one (1) foot of separation from another dumpster. This distance must be measured from the outside of the pocket where the forks are inserted for dumpster pickup.

(c) Enclosures shall be designed to the minimum dimensions as follows:

(1) Option 1 – This preferred option does not include a gate and can only be used when the opening is not visible from the public right-of-way or from adjoining residential properties.

(2) Option 2 – This option includes a gate with a one (1) foot vertical clearance, both gates to have the ability to be latched in the open position, and both gates to have the ability to be opened beyond ninety (90) degrees to at least a 145-degree angle.

(3) The following is required for both options:

a. No overhead obstructions (wires, trees, roof overhangs, etc.) are permitted;

b. The height must be sufficient to screen the dumpster;

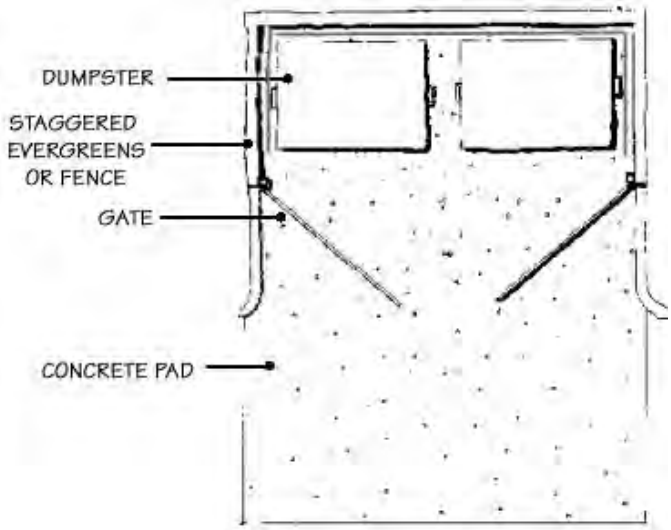
c. Materials used for screening the dumpster shall be alternating board on board fence, chain link fence with PDS slats or staggered evergreens. Such PDS slats shall complement the exterior color of the principal building;

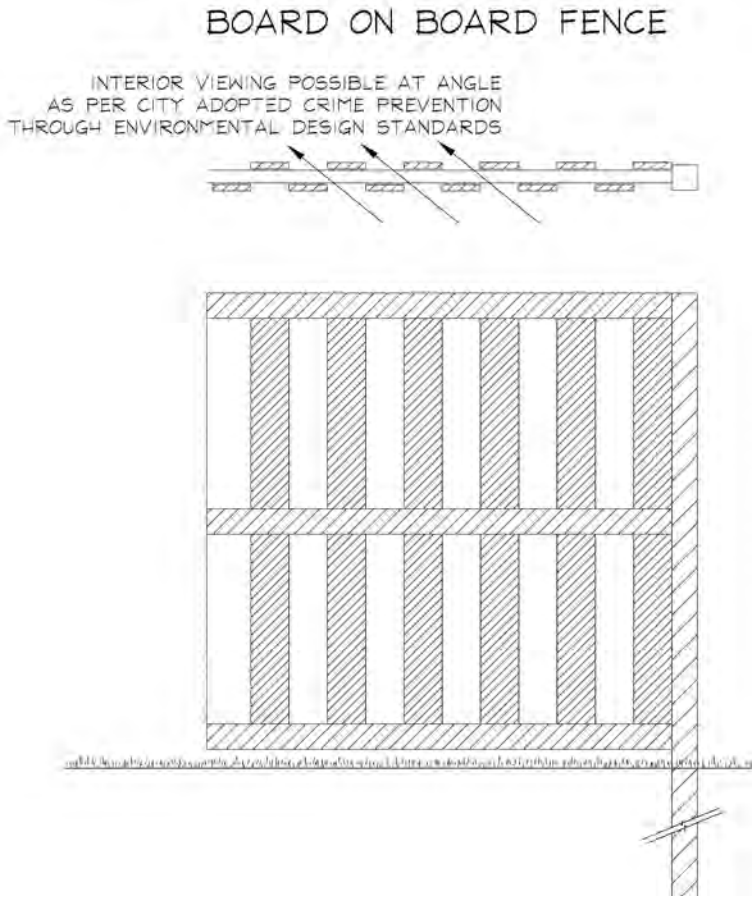
d. The depth of the enclosure shall be two (2) feet greater than the size of the dumpster;

e. The concrete pad for the dumpster must be the same level as the lot and able to support the weight of a City front load truck; and

f. A minimum fifty (50) foot direct front access on the approach to the dumpster is needed.

*Dumpster Enclosure Graphic*



**Sec. 23-48. Bed and breakfast establishments.**

Bed and breakfast establishments shall only be located within and accessory to an owner occupied single-family detached home.

(a) Bed and breakfast establishments shall comply with all local, county and state fire and health regulations.

(b) The bed and breakfast establishment shall be owner occupied at the time of rental.

(c) The operation of a bed and breakfast establishment shall not be considered or classified as a home occupation.

(d) A bed and breakfast establishment with four (4) or less guestrooms for rent is permitted.

(e) A bed and breakfast establishment with five (5) to a maximum of eight (8) guestrooms can be permitted with a Special Use Permit per §23-66.

(f) No ancillary commercial use shall be operated in connection with an approved bed and breakfast establishment. (Ord 110-07, §1, 6-26-07)

**Sec. 23-49. Drive through facility.**

(a) ***Location.*** Drive through facilities shall not be located in the front of the principal building.

(b) ***Site Design.***

(1) A drive through facility shall not be provided a separate curb cut except as may be recommended as part of a site plan review recommendation.

(2) Maneuvering space for drive through facilities shall be provided to the side and rear of the principal building except as may be recommended as part of a site plan review recommendation.

(3) The design of maneuvering and stacking aisles for the drive through shall not interfere with circulation or visibility for traffic either on or off site.

(4) A minimum of five (5) stacking spaces shall be provided for each drive through window.

(5) Where abutting residential districts, drive through facilities shall be fully screened from view.

(6) A drive through facility shall not conflict with pedestrian circulation on site.

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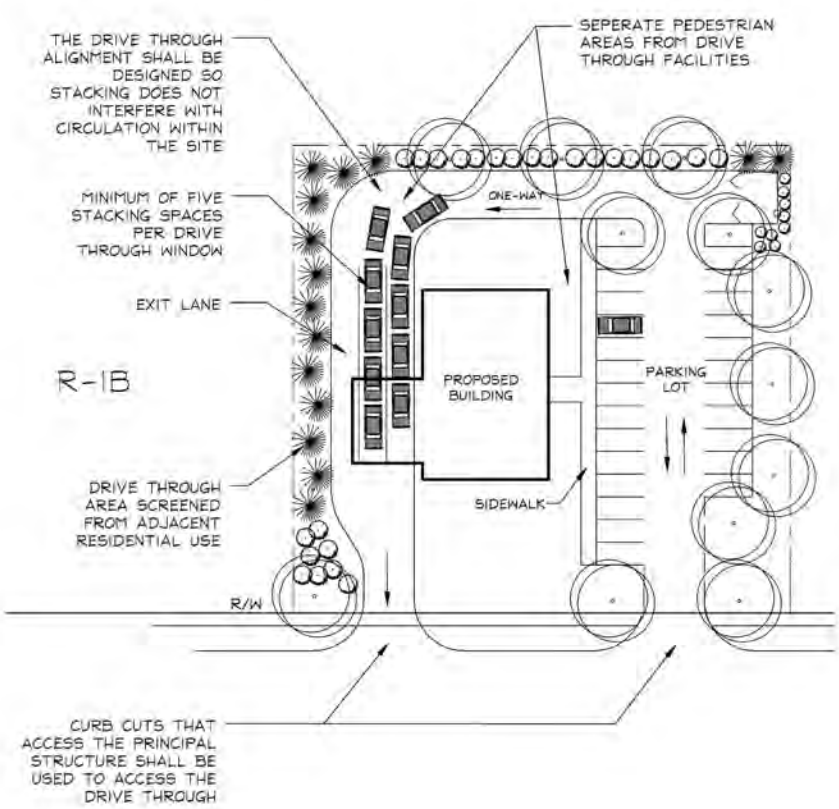
*Drive Through Graphic*




**Sec. 23-50. Dimensional exceptions and modifications.**

(a) ***Purpose.*** Height, area exceptions and modifications set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this chapter.

(b) ***General area exceptions and modifications.*** The area and setback requirements heretofore established shall be adjusted in the following cases:

(1) Every part of a required yard shall be open to the sky, unobstructed by a building, except for accessory structures in a side or rear yard, and except for ordinary projection of sills, belt courses, cornices and ornamental features, roof overhangs, eaves, bay windows, chimneys, and gutters not to exceed twenty-four (24) inches.

(2) Open or lattice enclosed fire escapes, required by law, and handicap access ramps may project into a required setback. The ordinary projection of chimneys and pilasters shall be permitted by the Inspections Supervisor, when placed so as not to obstruct light and ventilation.

(3) Terraces, uncovered porches, uncovered stairs, decks and ornamental features no greater than forty (40) square feet may project into a required yard, provided these projections do not extend more than three (3) feet above the floor level of the ground (first) story and are at least four (4) feet from the adjacent side lot line.

(4) Where a single building on a lot or tract is converted to condominium ownership, area and setback standards will apply to the original conforming lot or tract and not to individual ownership.

(5) Where an earthen berm is constructed separately or against a structure, the height of the berm relative to surrounding elevations cannot exceed three (3) feet at any point on the property unless such berm is first approved as part of a site plan submitted for §23-570, Site plan review and approval.

(c) ***Height.*** The height required heretofore shall be adjusted in the following cases:

(1) Educational institutions, public facilities, places of worship and other similar type institutions may be erected to a height not exceeding eighty-five (85) feet in any district in which they are permitted, provided:

a. In the P-I District, the regulations of §23-100(h)(4) – (6) shall be followed.

b. In all other districts, front and rear yards shall be increased in depth, and side yards shall be increased in width one (1) foot for each foot of height that the building exceeds the height regulations of the district in which it is located.

(2) The height regulations prescribed heretofore shall not apply to grain elevators, place of worship spires, belfries, monuments, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smoke stacks, conveyors, radio towers and flag poles.

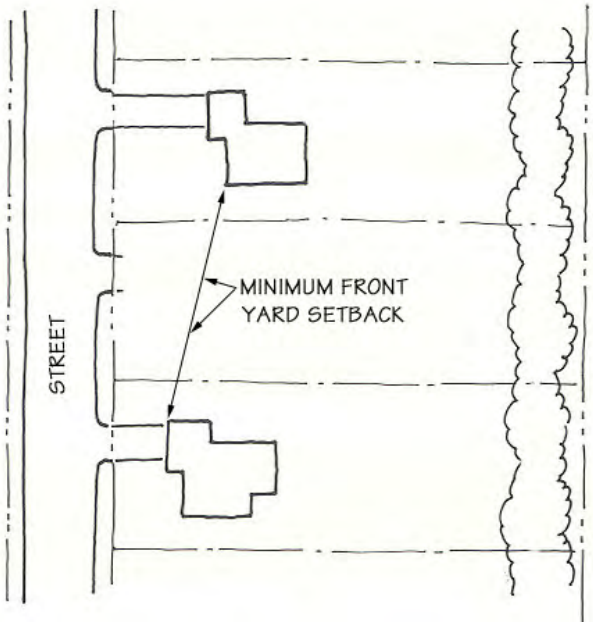
(d) ***Front yards.*** The front yards heretofore established, with the exception of front yards in corner lots, shall be adjusted in the following cases:

(1) If a lot is within one hundred (100) feet of existing buildings on both sides of the lot, the minimum front yard setback shall be a straight line drawn from the two (2) closest front corners of the adjacent building on each side; or

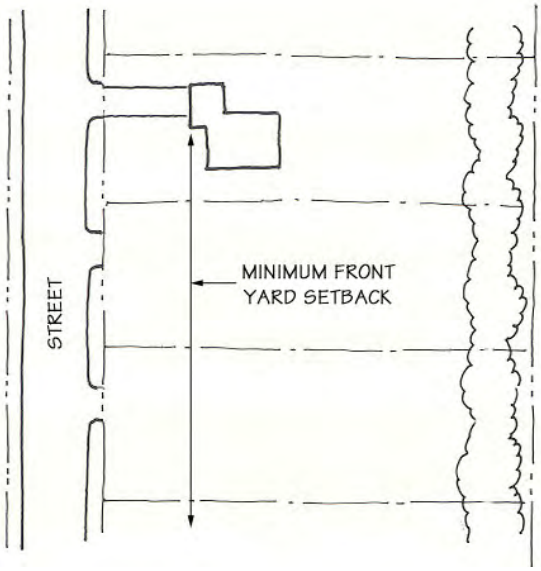
(2) If a lot is within one hundred (100) feet of an existing building on one (1) side only, the setback shall be the same as the adjacent building; or

(3) If a lot is more than one hundred (100) feet from an existing building on either side, then no reduction may be applied to the front yard setback.

***Example: Lot within 100 feet of two buildings.***

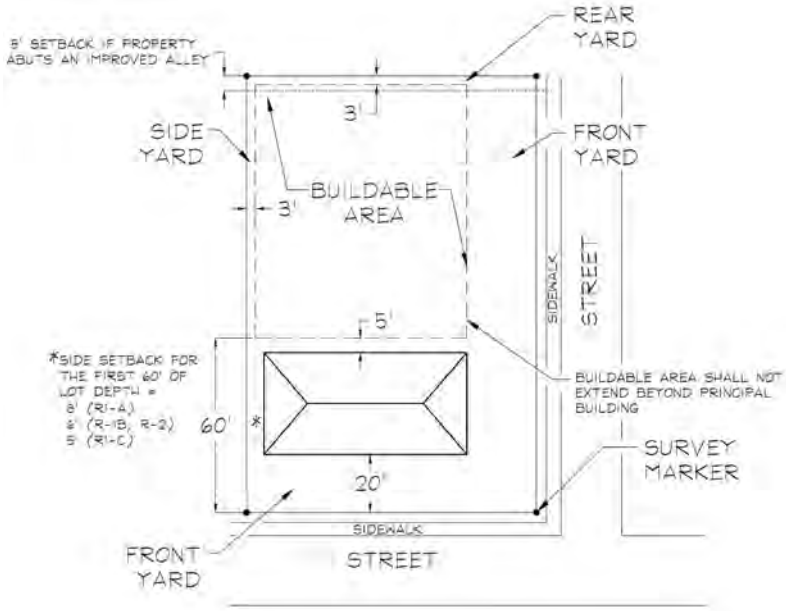


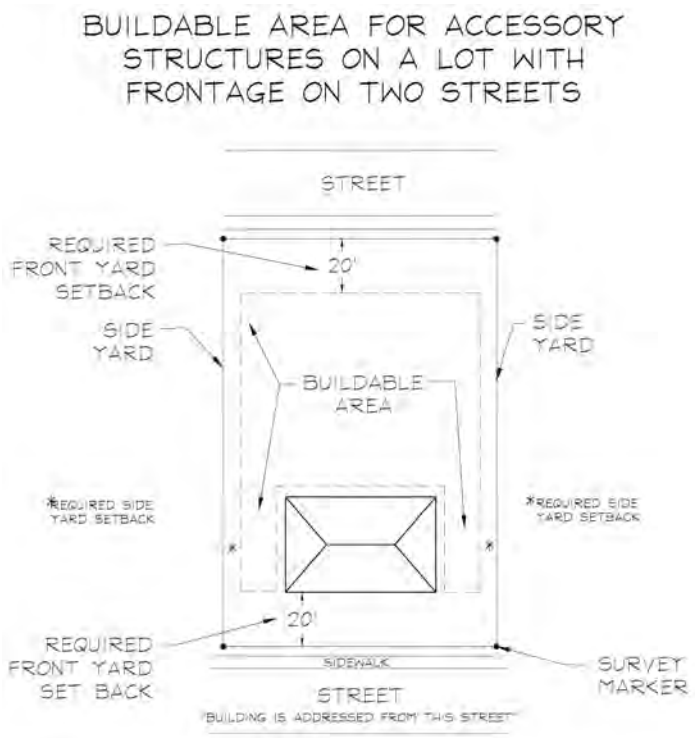
***Example: Lot within 100 feet of one building.***




(4) Where a lot is a double frontage lot, any detached accessory structure may be permitted in the yard opposite the front yard from which the principal structure is addressed. Furthermore, the accessory structure shall meet the front yard and side yard setback requirement of the principal structure.

BUILDABLE AREA FOR ACCESSORY STRUCTURES ON A TYPICAL CORNER LOT - RESIDENTIAL DISTRICTS






(e) ***Side yards.*** The side yards heretofore established, may be adjusted in the following cases:

(1) For the purpose of the side yard regulations, a two- (2-) family dwelling shall be considered as one (1) building occupying one (1) lot.

(2) Side yard setbacks are not required on the connected sides of a unified building development such as a multi-tenant building.

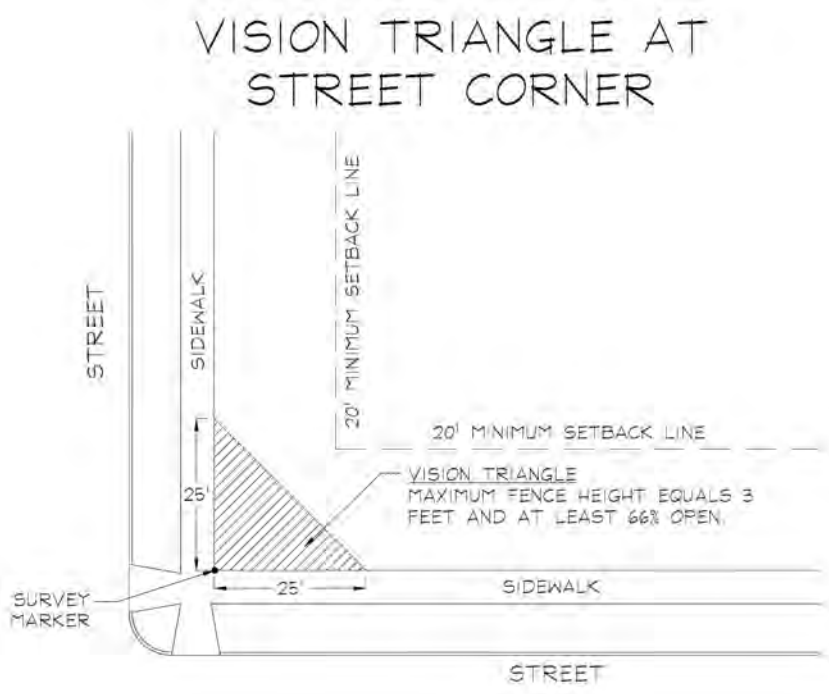
(f) ***Rear yards, corner lots of record.*** If a corner lot of record is less than one hundred (100) feet in depth, the required rear yard setback may be reduced, not to exceed fifty percent (50%) of the total minimum required rear yard setback.

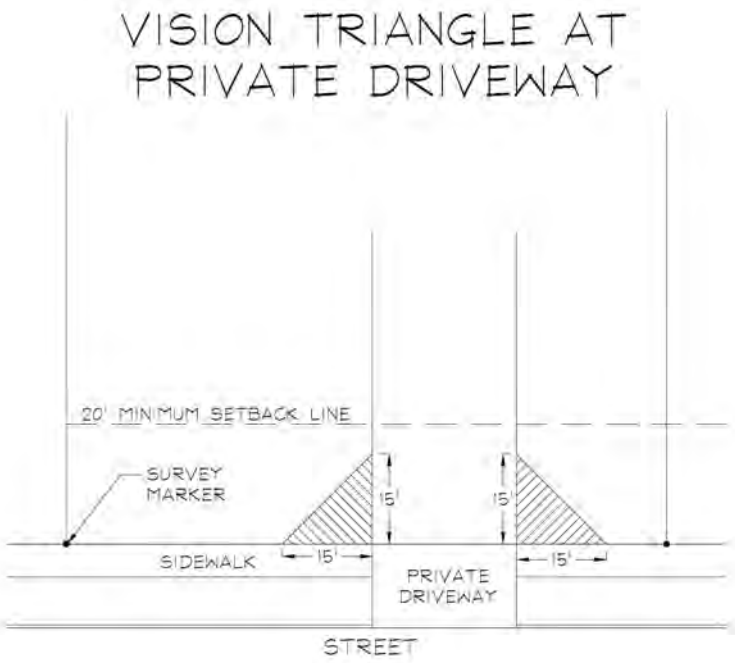
(g) ***Vision corner.*** Vegetation or structures on private property (as per requirements of City Traffic Code, Chapter 19):

(1) No owner or occupant of any property abutting a public street shall permit any trees, shrubs, bushes, weeds, signs, structures, walls or fences on his property to be so placed and maintained as to obstruct the vision of a user of the street at its intersection with another street or public thoroughfare. There shall be a vision corner on all corner lots located in zoning districts that require a minimum twenty (20) foot setback from street property lines. The vision corner is described as the triangular area enclosed by a straight line connecting a point on each street right-of-way line, which point is twenty-five (25) feet from the intersection of the right-of-way lines. Fences, walls, signs or structures erected in such vision corners shall not exceed three (3) feet in height. The fence, wall, sign or structure shall be a minimum of two-thirds (2/3) open to vision, equally distributed throughout the fence length and height located within the defined vision corner. Plantings in such vision corners shall be maintained in such a fashion as to provide unobstructed vision from three (3) feet above the centerline elevation of the abutting pavement to ten (10) feet above the centerline elevation.

(2) The provisions above also apply to those corner lots located in zoning districts that require a ten (10) foot setback from street property lines, except in those cases the vision corner is described as the triangular area enclosed by a straight line connecting a point on each street right-of-way line, which point is twenty (20) feet from the intersection of the street right-of-way.

(Ord 121-05, §1, 10-25-05; Ord 144-08, §1, 10-7-08)




**Sec. 23-51. Zoning with design requirements.**

(a) No single-family or two- (2-) family dwelling shall be erected or installed in any zoning district within the City of Appleton unless the structure is set on a full basement or other permanent enclosed foundation which meets the standards set forth in subchapters III, IV and V of Ch. ILHR 21, Wis. Adm. Code and all site construction is in compliance with Chapters ILHR 21-25, Wis. Adm. Code, the Uniform Dwelling Code.

(b) In addition to (a) above, residential structures must conform to the following:

(1) A one (1) story structure shall have a minimum living area of at least nine hundred (900) square feet and a two (2) story structure shall have a minimum first floor living area of at least seven hundred (700) square feet;

(2) Minimum width (i.e., the short side) of every dwelling shall be at least twenty-five (25) feet. Attached garages, carports and open decks shall not be included in the measurement of the width of the dwelling;

(3) The structure shall have a minimum of 4/12 pitched roof on a minimum of seventy-five percent (75%) of the structure;

(4) All dwellings shall be placed on an enclosed permanent foundation that does not extend more than twelve (12) inches of exposed concrete foundation above the exterior finished grade of the lot. An exception is when the grade of the lot slopes, in which case only that portion of the foundation which is on the highest point of the lot must meet the requirements of this paragraph.

(c) The Board of Appeals may not grant any variance from the requirements of (a). The Board of Appeals may grant a variance from the requirements of (b) only if the Board of Appeals specifically finds that the architectural style proposed provides compensating design features and that the proposed dwelling will be compatible and harmonious with other dwellings in the vicinity.

(d) Single-family and two- (2-) family dwellings that do not meet the above requirements as of November 19, 1995, are considered to be in conformity.
(Ord 118-95, §1, 11-15-95)

**Sec. 23-52. Community living arrangements (CLA) and other living arrangements.**

(a) ***Purpose.*** This section is intended to ensure that:

(1) All community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance provide a living environment for their residents which is as homelike as possible and is the least restrictive of each resident's freedom as is compatible with the resident's need for care and services;

(2) The care and services a resident needs are provided to the resident;

(3) Care and services are provided in such a manner that the resident is encouraged to move toward functional independence in daily living or to continue functioning independently to the extent possible; and

(4) Community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance are dispersed throughout the community to assure the most appropriate environment for each facility and the neighborhood in which the facility exists.

(b) ***General requirements.*** The following requirements shall be reviewed by the Community and Economic Development Director and the Inspections Supervisor and shall regulate community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance within the City limits:

(1) Prior to the issuance of a Certificate of Occupancy, the operator of the community living arrangement, adult family home (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance shall provide evidence to the Inspections Supervisor that a valid license has been or will be issued from the State of Wisconsin and/or another appropriate governmental unit.

(2) For the purpose of this section, the location of a community living arrangement, an adult family home (B) operated by corporations, child welfare agencies, churches, associations or public agencies or an adult family

home (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance shall be subject to the following requirements:

a. The total capacity of all community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family home (C) operated by corporations, child welfare agencies, churches, associations or public agencies within any aldermanic district may not exceed one percent (1%) of the total population of that aldermanic district. Exception to this requirement may be granted at the discretion of the City by a special use permit pursuant to §23-66 of this ordinance.

b. The total capacity of all community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies within the City may not exceed one percent (1%) of the total City population. Exception to this requirement may be granted at the discretion of the City by a special use permit pursuant to §23-66 of this ordinance.

(3) All community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family home (C) operated by corporations, child welfare agencies, churches, associations or public agencies must be reviewed by the Division of Inspections and the Fire Department and receive the necessary permits from those departments.

(4) The exterior of the community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family home (C) operated by corporations, child welfare agencies, churches, associations or public agencies shall conform to the character of the residential dwellings in the neighborhood in which it is located. Furthermore, all new structures proposed shall be compatible with the surrounding neighborhood.

(Ord 121-05, §1, 10-25-05; Ord 82-07, §1, 5-8-07)

**Sec. 23-53. Outdoor lighting.**

(a) ***Purpose.*** All areas containing outdoor lighting, including, but not limited to, floodlighting, security lighting, event lighting or the lighting of off-street parking and loading areas shall comply with the requirements of this section.

Furthermore, it is the intent of the regulations of this section to establish lighting levels for various permitted uses that promote visual surveillance, reduce the potential for criminal activity and prevent the unnecessary glare of light on adjacent properties.

(b) ***Lighting definitions.*** The following terms are defined for this section:

(1) ***Foot-candle.*** A unit of measure for illumination. A unit of illumination on a surface that is one (1) foot from a uniform point source of light of one (1) candle and equal to one (1) lumen per square foot.

(2) ***Full cut-off fixture.*** A light fixture that, by design of the housing, does not allow any light dispersion or direct glare to shine above a ninety degree (90º) horizontal plane from the base of the fixture.

(3) ***Horizontal foot-candle or luminance.*** The measurement of brightness from a light source, usually measured in foot-candles or lumens, which is taken through a light meter's sensor at a horizontal position.

(4) ***Light trespass.*** Light from an artificial light source that is intruding into an area where it is not wanted or does not belong.

(5) ***Lumens.*** A unit of illumination, being the amount of illumination of a unit area of spherical surface, due to a light of unit intensity placed at the center of the sphere.

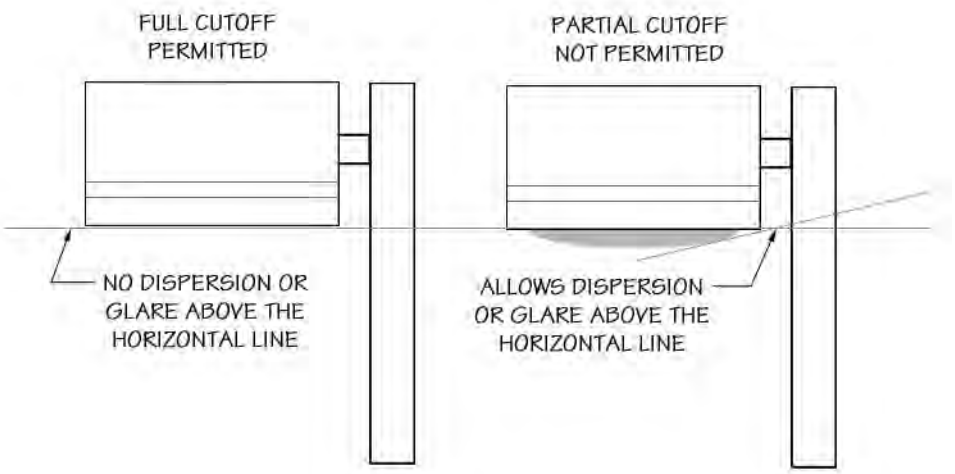
(6) ***Uplighting.*** Any light source that distributes illumination above a ninety-degree (90º) horizontal plane.

(7) ***Security lighting.*** Any light source used to illuminate a building, structure or property during evening hours that seeks to deter criminal activity.

(c) ***Lighting standards, configuration and timing.***

(1) All exterior lighting shall be of full cutoff design and directed downward and away from adjoining property, with luminaries shielded to prevent unnecessary glare as identified in the graphic on the next page.

***Example of cutoff light fixtures***




(2) Trees and shrubs shall not interfere with the distribution of exterior lighting necessary for security purposes as required by this section.

(3) Security lighting above building entrances, parking lots, off-street loading areas and service entrances shall be metal halide, LED, or another source, unless permitted otherwise during plan review, and incorporated in exterior areas going to and from the building(s) or use(s) within the site. (Ord 70-12, §1, 7-24-12)

(4) All exterior fixtures, when used for security purposes, except for parking lot lighting, shall be illuminated from dusk until dawn, unless otherwise specifically designated on the site plan and as approved through the site plan process. All other exterior lighting that is not necessary for security purposes shall be turned off one (1) hour after the close of business.

(5) Any exterior lighting device designed for security lighting shall be protected by weather and vandal-resistant covering, a managed light source for controlling the times of illumination and fully shielded and directed down to minimize glare and intrusiveness on adjacent properties or rights-of-way.

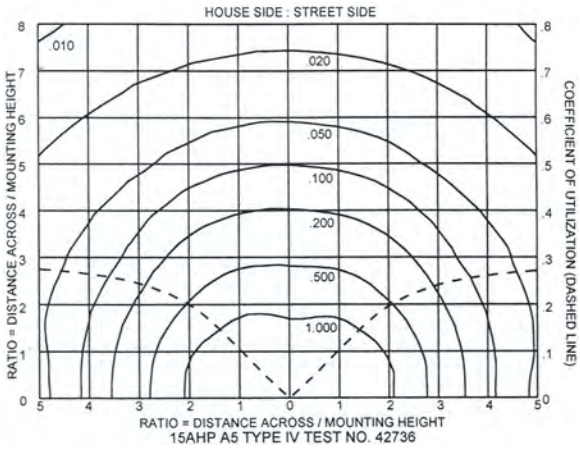
(6) Lighting in multi-level parking ramps shall be evaluated on a case-by-case basis to maximize safety and to minimize unnecessary glare to adjacent or nearby residential areas.

(d) ***Lighting plan.*** A lighting plan is required by this code. Such plan shall become an integral part of any site plan review application. No building permit shall be issued without first obtaining approval of a required lighting plan.

Details of exterior lighting shall be provided on a site plan as identified in §23-570, Site plan review and approval. Photometric calculations shall be detailed on an exterior lighting plan unless waived by the Community and Economic Development Director. Photometric calculations shall be based on the "mean" light output per the manufacturer's values of the specified lamp and luminaire photometry data formatted on Illumination Engineering Society (I.E.S.) file complied by an approved testing laboratory. The details provided for exterior lighting shall include point-to-point photometric

calculations at intervals of not more than ten (10) feet, at ground level, and may also be required at six (6) feet above ground level, depending on the applicable risk factors.

***Example: Photometric Calculation***




(e) ***Minimum illumination guidelines for security purposes.*** All minimum illumination guidelines for security lighting listed in this section shall be maintained from ground level to a height of six (6) feet. The minimum to maximum uniformity ratio may range up to 6:1 in acceptable layouts. In some circumstances, customer convenience, closed-circuit surveillance, and commercial entertainment uses may require a higher level of lighting.

(f) ***Outdoor lighting intensity standards.*** When outdoor lighting is proposed or required, the following standards in the table on the following page shall apply and the "activities" as described in the table shall be assigned and evaluated by the Appleton Police Department and Community and Economic Development Department based on the type of use, the hours of operation and the area in which the use is located.

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***Outdoor Lighting Intensity and Uniformity Standards.***

| Light Use | Minimum Horizontal Foot-candles | Maximum Horizontal Foot-candles | Additional Regulations |
|---|---|---|---|
| Parking lot | 0.5 | 5 | (1) Areas used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking lot lighting.<br>(2) Parking lot lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review. |
| Outdoor display and sales | - | 5 | - |
| Walkways, sidewalks, bike paths | - | 5.0 | (1) Lighting fixtures shall be designed to direct light downward, and the initial output of light sources shall not exceed one thousand (1,000) lumens.<br>(2) Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review. |
| Parks and playgrounds | - | 0.5 | Lighting fixtures shall be designed to direct light downward, and the initial output of light sources shall not exceed one thousand (1,000) lumens. |
| Canopies and drive through facilities | 5.0 | 20.0 | (1) Light fixtures mounted on or under canopy ceilings shall be full cutoff, unless indirect lighting is be used whereby light is directed upward and then reflected down from the ceiling of the structure. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the ceiling of the structure.<br>(2) Lights shall not be mounted on the top or sides of a canopy and the sides of a canopy shall not be illuminated.<br>(3) Lighting for drive-through facilities must be fully shielded.<br>(4) Canopy and bay lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review. |
| Outdoor activity facility | All outdoor entertainment or recreational/sports facility lighting will be reviewed for compliance with minimum site lighting criteria and light trespass criteria and with regard to the intent of these exterior lighting standards to minimize the impact of light trespass and glare on all surrounding properties and public rights-of-way. | | |
| High risk activity (e.g., bank deposit night drop or ATM) | 4.0 | 5.0 | Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review. |
| Medium risk activity (e.g., convenience store open 24 hours) | 2.0 | 4.0 | Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review. |
| Low risk activity (e.g., place of worship, office) | 0.50 | 2.0 | Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review. |

(Ord 71-12, §1, 7-24-12)

(g) ***Light trespass.*** All areas containing outdoor lighting (except public street lighting) shall limit light trespass onto adjacent property, when measured at any point along a property line, to the requirements set forth below. Compliance shall be achieved by utilizing fixture shielding, directional control designed into fixtures, fixture location, height, or aim or a combination of these or other factors.

| *District Adjoining Subject Property* | *Maximum Light Spillage to Adjoining Lots Measured in Foot-candles* |
|---|---|
| AG, R-1A, R-1B, R-1C, R-2, R-3, P-I, NC, C-O, TND | 0.20 |
| C-1, C-2, CBD, P, M-1, M-2 | 0.50 |

(h) ***Exterior illumination of buildings and other vertical structures.*** When buildings or other structures are illuminated, the design for the illumination shall be in accordance with the following:

(1) The illumination of buildings shall be limited to security lighting or highlighting unique architectural features.

(2) Lighting fixtures shall be located and/or aimed such that light is directed only onto the building surface. All fixtures used to illuminate buildings shall be fully shielded.

(3) For statues, monuments, fountains, or other objects for which it may not be possible to illuminate with downward lighting, upward lighting may be used only in the form of spotlights that confine the illumination to the object of interest.

(4) If upward lighting is used to illuminate flags, only spotlights shall be used; floodlights directed above the horizontal shall not be used to illuminate a flag.

(i) ***Neon lighting.*** Light sources consisting of glass tubes filled with neon, argon, krypton, or other similar gas (hereafter referred to as "neon lighting") are excluded from shielding and line-of-sight requirements. However such lighting shall be included in the light trespass requirements of §23-53(f). Furthermore, neon lighting shall not be considered as security lighting.

(j) ***Other outdoor lighting.***

(1) Outdoor lighting not otherwise specified in this code emitting more than one thousand two hundred (1,200) lumens (except motion detector activated lighting) shall be full cutoff and fully shielded. Bulbs in outdoor light fixtures emitting from six hundred (600) to one thousand two hundred (1,200) lumens may be installed in fixtures that are not full cutoff and may be visible from the property line provided, however, such bulbs shall be frosted glass or covered by frosted glass or other similarly translucent material.

(2) A spotlight or floodlight of less than one thousand eight hundred (1,800) lumens need not be full cutoff or fully shielded if its center beam is aimed at a point not beyond any property lines and no less than forty-five degrees (45º) below horizontal, is used for security lighting purposes only, and is motion detector activated and cycles off within five (5) minutes after the cessation of motion within its field of view.

(3) Tower or antenna lighting shall not be permitted unless required by the Federal Aviation Administration (FAA).

(k) ***Enforcement.*** Failure to adhere to the requirements of this section or an approved lighting plan shall be deemed a violation of this code.

(l) ***Exceptions.***

(1) The temporary use of low wattage or low voltage lighting for approved festivals, celebrations, and the observance of holidays are exempt from this section except where they create a hazard or nuisance from glare.

(2) Consideration to light trespass requirements shall be demonstrated prior to commencing the use of the temporary lighting.

(3) Emergency lighting and traffic control lighting shall be exempt from the requirements of this section.

(m) ***Lights not conforming to this chapter.***

(1) ***Authority to continue.*** Any lawful lighting fixtures located within the City at the effective date of this section or which shall come to be located in City as a result of annexation after the effective date of this code, which

does not conform to the provisions of this section, may continue provided the lighting remains in conformance with the provisions of this subsection.

(2) ***Ordinary maintenance and repair.*** Nothing in this subsection shall relieve the owner or beneficial user of legal nonconforming lighting, or the owner of the property on which the legal nonconforming lighting is located, from the provisions of this section regarding safety, maintenance and repair. Normal maintenance, including replacing light bulbs, cleaning, or routine repair of legal nonconforming light fixtures, shall not be deemed to be a condition that triggers a loss of lawful status described below, unless such maintenance increases the nonconforming aspects of the lighting.

(3) ***Loss of lawful status.***

a. Legal nonconforming status shall terminate under the following conditions:

1. If a light fixture is no longer used for a period of twelve (12) months or longer it shall be deemed abandoned and shall not thereafter be reestablished; or

2. If a lighting fixture is structurally altered such that its nonconforming aspects increase; or

3. If a lighting fixture is relocated, replaced, or moved in any way; or the lighting fixture is damaged and the cost of repair exceeds fifty percent (50%) of its replacement value.

b. Upon the event of any of the aforementioned, the lighting fixture(s) shall be immediately brought into compliance with this section, or the lighting fixture(s) shall be removed.

(4) ***Removal pursuant to public order.*** Lighting found by a governmental agency to create public hazard can be ordered removed or altered at any time.

**Sec. 23-54. Temporary uses and structures.**

(a) ***Purpose***. This section is intended to provide for the regulation and control of temporary uses and temporary structures that occur on private property on an intermittent basis or for a specific period of time, not intended to become a permanent use or structure. This administrative procedure will assure that standards are addressed and that the temporary use or temporary structure will not have a negative impact on adjacent properties and neighborhoods.

(b) ***Permit required***. All temporary uses and structures shall obtain a temporary use permit pursuant to the procedures set forth in this section prior to the establishment of a temporary use or structure, unless otherwise stated in this section.

(c) ***Permit applications and fees***. Application for a temporary use or structure shall be filed with the Community and Economic Development Director on forms available in the Community and Economic Development Department. Each application shall be accompanied by:

(1) A site plan drawing, drawn to scale, showing the property lines and dimensions, location of all existing and proposed structures/buildings, parking lot landscaping areas, on-street/off-street parking spaces and drive aisles, driveways, location, size and setback dimensions to property lines of the proposed temporary use and/or structure.

(2) Other information and plans as may be required by the Community and Economic Development Director to determine whether a temporary use/structure permit application should be approved, conditionally approved, or denied. The Community and Economic Development Director may also authorize omission of any information or plans if he or she finds they are not necessary.

(3) Permit fee. The fee for a temporary use/structure permit shall be established by the Common Council and is on file in the Office of the City Clerk.

(d) ***Action upon acceptance of a permit application***.

(1) After acceptance of a complete application, the Community and Economic Development Director shall

forward each application for a temporary use or temporary structure to the City Clerk's Office, Inspections Division, Fire Department, Health Department, Police Department, and Public Works Department-Engineering Division. An authorized representative from each department shall review each application for a temporary use or temporary structure, insofar as the application relates to their respective department's duties based upon the City of Appleton Municipal Code, to determine whether the application for a temporary use or temporary structure complies with the ordinances and laws applicable thereto. These representatives shall furnish the Community and Economic Development Director, in writing, their recommendation as to whether an application for a temporary use or temporary structure should be approved, approved conditionally, or denied within five (5) business days after the application has been accepted by the Community and Economic Development Director.

(2) Within ten (10) business days after acceptance of a complete application and after notification to the City departments listed above, the Community and Economic Development Director shall approve, approve with conditions, deny such temporary use, or temporary structure permit.

(3) If there is recommendation for denial, the Community and Economic Development Director shall reject such temporary use or temporary structure permit in writing to the applicant stating the reasons for denial.

(e) ***Time limits on permit applications***. All temporary uses and structures shall be confined to the dates specified by the Community and Economic Development Director, on the temporary use permit.

(f) ***Violations; penalty***. Failure to comply with the approved or conditionally approved temporary use permit or the provisions of this chapter, or failure to obtain a temporary use permit shall be a violation of this section. Administration and enforcement shall be as prescribed in §23-69 of this chapter.

(g) ***General standards***. All temporary uses and structures shall meet the following requirements:

(1) ***Lot and setback requirements***.

a. A temporary use and/or temporary structure shall not occur or be placed on a vacant lot, unless otherwise stated in this section.

b. A temporary use and/or temporary structure shall comply with the minimum front, rear and side yard setback requirements for the principal structure (development standards) of the zoning district in which the temporary use or temporary structure is located, unless otherwise stated in this section.

c. A temporary use and/or temporary structure shall not be placed in an area intended for emergency service vehicles.

d. A temporary use and/or temporary structure that is located in a parking lot shall not occupy more than forty percent (40%) of the available parking spaces for the principal use(s).

e. A temporary use and/or temporary structure shall not impede the vehicular traffic circulation or the movement of emergency vehicles on the lot.

f. A temporary use and/or temporary structure shall not be placed in the required interior or perimeter parking lot landscaping areas.

(2) ***Outdoor lighting***. The minimum regulations of §23-53, Outdoor lighting shall be complied with.

(3) ***Parking spaces***. All required parking spaces shall be provided on the same lot with the temporary use, unless otherwise stated in this section. The number of parking spaces required for the temporary use is based on parking requirements for the most similar use type listed under §23-172 of this chapter, unless otherwise stated in this section. However, due to the primary pedestrian orientation of the Central Business District (CBD), the off-street parking requirements are not required for temporary uses located in the CBD.

(4) ***Food sales***. Food sales shall be licensed and operated under valid City of Appleton Health Department permits pursuant to the Municipal Code and state laws.

(5) ***Sanitary facilities***. Sanitary facilities, either portable or permanent, shall be made available to all employees, attendants and participants of the temporary use or temporary structure during its operation hours, as determined and required by the Inspections Supervisor.

(6) ***Other code requirements***. The applicant shall apply for and receive all applicable permits and licenses pursuant to the Municipal Code prior to establishing a temporary use and/or temporary structure on a lot.

(7) ***Cleanup***. The site shall be completely cleaned of unsold merchandise, debris and temporary structures including, but not limited to: trash receptacles, signs, stands, poles, electrical wiring or any other fixtures and accessories or equipment connected therewith, after the termination of the temporary use or temporary structure.

(h) ***Temporary uses***. The following temporary uses may be permitted as specified:

(1) ***Outdoor sale of seasonal agricultural products***.

a. Permitted zoning districts: AG, P-I, C-1, C-2 or CBD.

b. Outdoor sales of seasonal agricultural products may be allowed on a lot for no more than one hundred twenty (120) total days per calendar year.

c. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).

d. Outdoor sale of seasonal agricultural products are exempt from the setback requirements of §23-54(g)(1)b, except that no outdoor sale of seasonal agricultural products, shall be located within the vision corner, pursuant to §23-50, of this chapter.

e. Temporary structures associated with the temporary use shall comply with the standards of this section.

(2) ***Outdoor Christmas tree sales lot (including incidental sale of Christmas related items)*.**

a. Permitted zoning districts: AG, R-1A, R-1B, R-1C, R-2, R-3, P-I, C-1, C-2, or CBD.

b. Outdoor Christmas tree sales lot (including incidental sale of Christmas related items) may be allowed on a lot for no more than forty-five (45) total days per calendar year.

c. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).

d. Hours of operation for an outdoor Christmas tree sales lot (including incidental sale of Christmas related items) shall be limited to 8:00 a.m. to 8:00 p.m. when placed on a residential zoned lot or associated with a residence.

e. Outdoor Christmas tree sales lot (including incidental sale of Christmas related items) are exempt from the setback requirements of §23-54(g)(1)b, except that no outdoor Christmas tree sales lot (including incidental sale of Christmas related items) shall be located within the vision corner, pursuant to §23-50, of this chapter.

f. Temporary structures associated with the temporary use shall comply with the standards of this section.

(3) ***Outdoor fireworks sales***.

a. Permitted zoning districts: C-1, C-2 or CBD.

b. Outdoor fireworks sales may be allowed on a lot for no more than sixty (60) total days per calendar year.

c. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).

d. Outdoor fireworks sales are exempt from the setback requirements of §23-54(g)(1)b, except that no outdoor fireworks sales shall be located within the vision corner, pursuant to §23-50, of this chapter.

e. Temporary structures associated with the temporary use shall comply with the specific regulations of this section.

(4) ***Rummage sales***.

a. Permitted zoning districts: Any district when incidental to a residential dwelling.

b. No temporary use permit is required pursuant to §23-54(b). Provision for parking spaces is not required for rummage sales.

c. Rummage sales may be allowed on a lot for no more than three (3) consecutive days and that no lot shall be used for more than three (3) such sales in one (1) calendar year.

d. The display of rummage sale items are exempt from the setback requirements of §23-54(g)(1)b, except that no rummage sale items shall be displayed and/or sold within the vision corner, pursuant to §23-50, of this chapter.

e. Temporary structures associated with the temporary use shall comply with the standards of this section.

(5) ***Outdoor temporary merchandise sales other than outdoor seasonal agricultural products, outdoor Christmas tree sales, outdoor firework sales/stands, rummage sales and outdoor farmers markets***.

a. Permitted zoning districts: C-2 or CBD.

b. No more than four (4) temporary use permits per lot shall be issued per calendar year.

c. The maximum time limit per temporary use permit shall be five (5) days.

d. The provision for parking spaces shall be provided on the same lot with the temporary use, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).

e. Outdoor temporary merchandise sales are exempt from the setback requirements of §23-54(g)(1)b, except that no outdoor temporary merchandise sales shall be displayed and/or sold within the vision corner, pursuant to §23-50, of this chapter.

f. Temporary structures associated with the temporary use shall comply with the standards of this section.

(6) ***Outdoor farmers market***.

a. Permitted zoning districts: AG, P-I, C-2 or CBD.

b. Outdoor farmers market may be allowed on a lot for no more than one hundred twenty (120) total days per calendar year.

c. The provision for parking spaces shall be provided on the same lot with the temporary use, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).

d. Outdoor farmers markets are exempt from the setback requirements of §23-54(g)(1)b, except that no outdoor farmers market shall be located within the vision corner, pursuant to §23-50, of this chapter.

e. Temporary structures associated with the temporary use shall comply with the specific regulations of this section.

(7) ***Temporary model home sales office***.

a. Permitted zoning districts: R-1A, R-1B, R-1C, R-2 or R-3.

b. No temporary use permit is required pursuant to §23-54(b).

c. Temporary model home sales offices may be allowed on a lot for the purpose of promoting the sale, or rental of dwellings and/or lots, which are located only within the same residential development or subdivision for a period of three (3) years.

d. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, except the provision for parking spaces are not required for temporary uses located in the Central Business District (CBD).

e. There is no more than one (1) temporary model home sales office in the residential development or subdivision.

f. The temporary model home sales office shall be designed as a permanent dwelling that meets all relevant requirements of the Municipal Code.

g. The temporary model home sales office will be converted to residential use after it is used as a temporary model home sales office.

(i) ***Temporary structures***. The following temporary structures may be permitted as specified:

(1) ***Temporary contractor's offices***.

a. Permitted zoning districts: Any district when associated with a construction project.

b. No temporary use permit is required pursuant to §23-54(b). Provision for parking spaces is not required for temporary contractor's offices.

c. Temporary contractor's offices may be located on a lot or vacant lot where there is a valid building permit issued for a permanent structure.

d. Temporary contractor's offices shall be removed from the site upon issuance of a certificate of occupancy permit or upon occupancy of the permanent structure.

e. Temporary contractor's offices shall be setback at least ten (10) feet from any property line.

f. Temporary contractor's offices shall not be located within the vision corner, pursuant to §23-50, of this chapter.

(2) ***Tents or canopies***.

a. Permitted zoning districts: Any district when associated with any permitted temporary use not including temporary model home sales office.

1. No temporary use permit is required pursuant to §23-54(b).

2. The maximum time limit shall be equal to the allowable time period for the temporary use, where such tent is incidental to the temporary use.

3. Tents or canopies shall not be located within the vision corner, pursuant to §23-50, of this chapter.

b. Permitted zoning districts: C-1, C-2, CBD, or M-2 district when associated with an outdoor display.

1. No temporary use permit is required pursuant to §23-54(b).

2. The maximum time limit shall be equal to the allowable time period for the outdoor display, where such tent is incidental to the outdoor display.

3. Tents or canopies shall not be located within the vision corner, pursuant to §23-50, of this chapter.

(3) ***Portable storage units***.

a. Permitted zoning districts: Any district when incidental to a residential dwelling.

1. No temporary use permit is required pursuant to §23-54(b).

2. A maximum of four (4) portable storage units not exceeding a cumulative gross floor area of two hundred (200) square feet shall be permitted on a lot for no more than sixty (60) total days per calendar year.

3. The portable storage unit shall be placed on an impervious surface.

4. The portable storage unit shall not be located within the vision corner, pursuant to §23-50, of this chapter.

5. Portable storage units shall not be used for the purposes of a garage or shed.

b. Permitted zoning districts: P-I, C-O, C-1, C-2, CBD, M-1 or M-2.

1. No more the three (3) temporary use permits per business shall be issued per calendar year.

2. Two (2) portable storage units shall be the maximum allowed per temporary use permit.

3. The maximum time limit per temporary use permit shall be thirty (30) days.

4. Portable storage units shall be placed on an impervious surface.

5. Portable storage units may be placed on a lot within a designated loading space or shall be placed on a lot pursuant to §23-54(g), of this chapter.

(4) ***Temporary structures other than tents, canopies, temporary contractor's offices, or portable storage units***.

a. Permitted zoning districts: Any district.

b. Temporary structures may be located on a lot provided the use occupying a temporary structure is listed as a principal permitted use or special use in the underlying zoning district.

c. The maximum time limit of the permit shall be equal to the allowable time period for the temporary use, where such temporary structure is associated with a temporary use.

d. Except as set forth in §23-54(i)(4)c, the maximum time limit of the permit for a temporary structure may be approved for a period not to exceed six (6) months per calendar year.

e. Temporary structures shall not be placed or located on pervious surfaces.

f. Temporary structures shall not be located within the vision corner, pursuant to §23-50 of this chapter.

(j) ***Other temporary uses or temporary structures***. The Community and Economic Development Director may determine that an unlisted temporary use or temporary structure may be allowed if it is similar in character to other temporary uses or temporary structures listed in this section and meets the intent of this ordinance.

**Table 3. Permitted Temporary Uses and Structures by Type and Zoning District.**

| Temporary Use Type | AG | R-1A R-1B R-1C R-2 R-3 | NC | P-I | C-O | C-1 | C-2 | CBD | M-1 | M-2 | P |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Outdoor sales of Seasonal Agricultural Products | P | * | * | P | * | P | P | P | * | * | * |
| Outdoor Farmers Market | P | * | * | P | * | * | P | P | * | * | * |
| Outdoor Temporary Merchandise Sales | * | * | * | * | * | * | P | P | * | * | * |
| Circus and Carnival | * | * | * | S | * | * | S | * | * | * | * |
| Rummage sales, when incidental to a residential dwelling | A | A | A | A | A | A | A | A | A | A | A |
| Outdoor Christmas tree sales lot | P | P | * | P | * | P | P | P | * | * | * |
| Outdoor Fireworks sales | * | * | * | * | * | P | P | P | * | * | * |
| Temporary Model Home sales office | * | A | * | * | * | * | * | * | * | * | * |
| Temporary structures | P | P | P | P | P | P | P | P | P | P | P |
| Temporary Construction Trailers | A | A | A | A | A | A | A | A | A | A | A |
| Portable storage unit when incidental to a residential dwelling | A | A | A | A | A | A | A | A | A | A | A |
| Portable storage unit | * | * | * | P | P | P | P | P | P | P | * |
| Tents/canopies when associated with temporary use | A[1] | A[1] | A[1] | A[1] | A[1] | A[1] | A[1] | A[1] | A[1] | A[1] | A[1] |
| Tents/canopies when associated with outdoor display | * | * | * | * | * | A[1] | A[1] | A[1] | * | A[1] | * |

* = Temporary use type not allowed
A = Allowed without a temporary use permit.
A[1] = Allowed without a temporary use permit. ***However, Tents greater than 200 square feet and Canopies greater than 400 square feet require a permit from the Appleton Fire Department.***
P = Temporary use permit required
S = Special Use Permit Required

(Ord 145-08, §1, 10-7-08 (repealed and recreated entire §23-54))

**Secs. 23-53 – 23-59. Reserved.**

## ARTICLE IV. ADMINISTRATION

### Sec. 23-60. Purpose.

Administrative procedures and authority for administering, interpreting and enforcing this ordinance are herein established in order to achieve the following purposes:

(a) To provide for the review of site and development plans before obtaining a Certificate of Occupancy;

(b) To provide for the inclusion of necessary facilities, services and additional uses through special use permits;

(c) To provide for the inclusion of uses which are not specified in this ordinance, but which have characteristics and a land use impact similar to permitted uses;

(d) To assure that no work shall be started on relocation, construction, reconstruction, or structural alteration of a building, structure or use, until the building or use is found to comply with all provisions of this zoning ordinance;

(e) To assure, before construction of new buildings or the commencement of a use or occupancy, or before occupancy is continued after alterations or changes in use have been made, that all regulations of the City have been met by requiring a Certificate of Use and Occupancy; and

(f) To provide for the enforcement by issuance of orders by the Community and Economic Development Director or the Inspections Supervisor.

### Sec. 23-61. Common Council.

(a) ***Purpose.*** The Common Council, without limitation upon such authority as it may possess by law, has responsibility for implementing and administering this chapter.

(b) ***Powers and duties.*** The Common Council, in general, performs the following functions:

(1) Approves or disapproves any application for an amendment to this chapter, including applications for amendment to the Official Zoning Map.

(2) Approves or disapproves any application for a special use permit.

(3) Approves or disapproves any application for a PD and TND.

(4) Approves or disapproves proposed amendments to the City's adopted land use policies.

(5) Takes such other action not delegated to other bodies that may be desirable and necessary to implement the provisions of this chapter.

(Ord 61-94, §5, 5-18-94)

### Sec. 23-62. Plan Commission.

(a) ***Purpose.*** The Plan Commission, without limitation upon such authority as it may possess by law, has responsibility for implementing and administering this chapter as set forth in this section.

(b) ***Powers and duties.*** There is created a Plan Commission with the powers and duties and qualifications as set forth in this section and in Wisconsin Statutes §62.23. Such powers and duties generally include:

(1) To initiate, hear, review and offer its recommendations to the Common Council on applications for amendments to this chapter, including applications for amendment to the Official Zoning Map.

(2) To hear, review and offer its recommendations to the Common Council on applications for special use permits, subdivisions, annexations, PD, TND, official map actions, street vacations and name changes and other matters.

(3) To prepare and recommend to the Common Council for adoption a comprehensive plan for the City, and from time to time to recommend to the Council such amendments as it may deem appropriate.

(4) To aid and assist the Common Council and the departments of the City in implementing the City's adopted land use policies and in planning, developing and completing specific projects.

(5) To review and report on any matters referred to it by the Common Council.

(6) Review of any site plan upon disapproval by the Community and Economic Development Director.

(7) Upon reasonable written request, to make its special knowledge and expertise available to any official, department, board or commission of the City to aid them in the performance of their respective duties relating to the planning and development of the City.

(8) To review any similar use not specifically permitted, as denied by the Community and Economic Development Director, under §23-37(c). In no case shall this interpretation be construed as a process for a use variance.

(9) To review and offer its recommendation to the Common Council on requests for modifications or waivers to screening and landscaping requirements as set forth in §23-66(h)18.b.vii.5.a. thru c.

(c) ***Structure.*** The structure of the Plan Commission shall comply with City Municipal Code Charter Ordinance §3-100, et seq.

(d) ***Organization.*** The Plan Commission shall organize by the election of a vice-chairman and such other officers as may, in their judgment, be necessary.

(1) The Plan Commission shall keep a written record of its proceedings to include all actions taken.

(2) Four (4) members shall constitute a quorum.

(Ord 61-94, §5, 5-18-94; Ord 82-06, §1, 7-11-06; Ord 69-13, §1, 8-13-13)

**Sec. 23-63. Board of Appeals.**

(a) ***Purpose.*** The Board of Appeals, without limitation upon such authority as it may possess by law, has responsibility for implementing and administering this chapter as set forth in this section.

(b) ***Powers and duties.*** There is created a Board of Appeals with the powers and duties and qualifications as set forth in this chapter and in Wisconsin Statutes §62.23. Such powers and duties generally include:

(1) To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the Community and Economic Development Director or the Inspections Supervisor in the enforcement of this chapter.

(2) To hear and decide upon applications for variances from the requirements of this chapter as will not be contrary to the public interest, where, owing to the special conditions of the property, a literal enforcement of this ordinance will result in unnecessary hardship, and so that the spirit of this ordinance shall be observed and substantial justice done.

(3) Upon reasonable written request, to make its special knowledge and expertise available to any official, department, board or commission of the City to aid them in the performance of their respective duties relating to the planning and development of the City.

(c) ***Structure.*** The Board of Appeals shall consist of five (5) members appointed by the Mayor and subject to approval by the Common Council as vacancies occur.

(1) One (1) member shall be an architect, engineer or contractor; one (1) member shall be a real estate broker; and three (3) members shall be selected for their knowledge of and interest in matters pertaining to this chapter.

(2) Members shall serve staggered five (5) year terms; one (1) expiring each year. Terms shall expire May 1 of each year.

(3) The Board shall reorganize in June of each year by electing a chairman, vice-chairman and secretary. All meetings of the Board shall be held at the call of the chairman or at such times as the Board determines.

(d) ***Procedures.*** The Board of Appeals shall hold meetings and make decisions in accordance with the following procedures:

(1) All hearings conducted by said Board shall be open to the public. Any person may appear and testify at a hearing, either in person, or by duly authorized agent or attorney.

(2) The Board of Appeals may call on any City department for assistance in the performance of its duties as may be reasonably required.

(3) All decisions made by the Board shall be made without unreasonable delay.

(4) The Board shall keep written minutes of its proceedings, showing the vote of each member upon each question, or if absent, or failing to vote, indicating such fact, and shall also keep records of its hearing and other official actions.

(5) Findings of fact shall be included in the minutes of each case.

(6) Every rule or regulation, amendment, decision or determination of the Board shall be filed promptly in the office of the board, and shall be a public record.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1c, 11-6-96)

**Sec. 23-64. Administration.**

(a) ***Purpose.*** The primary administration of this chapter is by the Community and Economic Development Director and Inspections Supervisor as noted below and cited throughout the chapter.

(b) The Community and Economic Development Director is responsible for performing the following duties:

(1) Review and administer all site plans required by this chapter;

(2) Review and approve or deny all applications for permitted use status under all zoning districts;

(3) Conduct preapplication conferences with petitioners for zoning map amendments;

(4) Receive, certify for completeness and forward to the Plan Commission all applications as prescribed by this chapter;

(5) Have possession of permanent and current records of this chapter, including the City's Official Zoning Map and amendments to the Official Zoning Map, special use permits and ordinance amendments.

(6) Review and approve or deny requests for modifications or waivers to screening and landscaping requirements as set forth in §23-66(h)18.b.vii.5.a. thru c.

(c) The Inspections Supervisor is responsible for performing the following duties:

(1) Issue and maintain records of all building and sign permits;

(2) Issue and maintain records of all Certificates of Occupancy;

(3) Conduct inspections of buildings, structures and uses of land to determine compliance with the terms of this chapter;

(4) Make investigations with respect to matters referred to in this chapter;

(5) Issue violation notices requiring compliance, to advise suspected violators of their right to appeal and to issue citations for violations of this chapter;

(6) Require that all construction or work of any type be stopped when such work is not in compliance with this chapter and revoke any permit that was unlawfully issued without full compliance of the requirements of this chapter or under fraudulent conditions;

(7) Have possession of permanent and current records of this chapter, including Board of Appeals cases;

(8) Review, process and report findings and recommendations and forward appeal and variance requests to the Board of Appeals on those applications upon which the Board of Appeals is required to act;

(9) Enforce all orders of the Board of Appeals.

(Ord 107-96, §1, 11-6-96; Ord 83-06, §1, 7-11-06; Ord 70-13, §1, 8-13-13)

**Sec. 23-65. Zoning amendments.**

(a) ***Purpose.*** The amendment process provides a method for making changes in the zoning text and zoning map.

(b) ***Initiation.***

(1) Proposed text amendments may be initiated by: Common Council, Plan Commission, the property owner or a resident of the City.

(2) Proposed map amendments may be initiated by: Common Council, Plan Commission, the owner of, or owner's designated agent of the particular property to be rezoned.

(c) ***Text amendments.***

(1) ***Proposal by Common Council or Plan Commission.*** Text amendments may be proposed by resolution of an alderperson submitted to the City Clerk to be forwarded to the Plan Commission or by direct initiation by the Plan Commission. If the Plan Commission determines an amendment proposed by an alderperson is primarily intended to serve an individual or narrow interest rather than the general public interest, it shall report such resolution with a recommendation that the benefiting party submit an application with appropriate fees.

(2) ***Application by property owner or resident.*** A property owner or resident wishing to amend the text of this chapter shall meet with the Community and Economic Development Director to discuss the proposed amendment. If the owner or resident wishes to pursue an amendment, they shall file an application form with the City Clerk accompanied by a nonrefundable application fee which may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review.

(3) ***Informal hearing.*** Within thirty (30) days of filing, the Community and Economic Development Director shall establish a date, time and place to hold an informal hearing before the Plan Commission. The Director will be responsible for analyzing the facts regarding the petition and prepare a staff review and recommendation for consideration by the Plan Commission.

(4) ***Action by Plan Commission.*** Within forty-five (45) days following the conclusion of the informal hearing, the Plan Commission shall transmit to the Common Council its recommendation. Failure of the Plan Commission to act within forty-five (45) days following the conclusion of such hearing shall be deemed a recommendation for the approval of the petitioned amendment as submitted.

(5) ***Public hearing.*** Within thirty (30) days of the receipt of the Plan Commission report, or its failure to act as above provided, (unless such time shall be extended by agreement with the petitioner) the Common Council shall hold a public hearing, advertised by a Class 2 notice.

(6) ***Action by Common Council.*** Within forty-five (45) days of the public hearing the Common Council shall either approve or deny the proposed amendment. Council action to approve the amendment shall be done by ordinance.

(d) ***Map amendments.***

(1) ***Proposal by Common Council or Plan Commission.*** Amendments may be proposed by resolution of an alderperson submitted to the City Clerk to be forwarded to the Plan Commission or by direct initiation by the Plan Commission. If the Plan Commission determines an amendment proposed by an alderperson is primarily intended to serve an individual or narrow interest rather than the general public interest, it shall report such resolution with a recommendation that the benefiting party submit an application with appropriate fees. A resolution to initiate rezoning must be accompanied by the information required in subsection (2) that follows and shall be processed in accordance with the provisions of this section.

(2) ***Application by owner or owner's designated agent.*** An owner or owner's designated agent wishing to rezone his property shall meet with the Community and Economic Development Director to discuss the proposed rezoning. If the owner or owner's designated agent wishes to pursue a rezoning, they shall obtain, complete and file a rezoning application form with the City Clerk accompanied by a nonrefundable fee which may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review. The application form shall contain, at a minimum, the following information:

a. Applicant and property owner's name, address and telephone number.

b. Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use.

c. Present zoning district and use of the property.

d. Proposed zoning district and description of proposed land use and/or structures.

e. Justification for rezoning.

f. Map of area, drawn to scale, outlining the parcel(s) requested for rezoning, identifying all adjacent streets, properties, existing zoning and present uses on all adjacent properties.

(3) ***Standards for map amendments.*** All recommendations for Official Zoning Map amendments shall be consistent with the adopted plans, goals and policies of the City and with the intent of this zoning ordinance.

a. Prior to making a recommendation on a proposed rezoning, the Plan Commission shall make a finding to determine if the following conditions exist. No rezoning of land shall be approved prior to finding at least one (1) of the following:

1. The request for a zone change is in conformance with the VISION 20/20: Comprehensive Plan for the City of Appleton.

2. A study submitted by the applicant that indicates that there has been an increase in the demand for land in the requested zoning district, and as a result, the supply of land within the City mapped as such on the Official Zoning Map, is inadequate to meet the demands for such development.

3. Proposed amendments cannot be accommodated by sites already zoned in the City due to lack of transportation, utilities or other development constraints, or the market to be served by the proposed use cannot be effectively served by the location of the existing zoning district(s).

4. There is an error in the code text or zoning map as enacted.

b. In addition to the findings required to be made by subsection (a), findings shall be made by the Plan Commission on each of the following matters based on the evidence presented:

1. The adequacy of public facilities such as transportation, utilities and other required public services to serve the proposed site.

2. The effect of the proposed rezoning on surrounding uses.

(4) ***Informal hearing.*** Within thirty (30) days of filing, the Community and Economic Development Director establish a date, time and place to hold an informal hearing before the Plan Commission. The Director will be responsible for analyzing the facts regarding the petition and prepare a staff review and recommendation for consideration by the Plan Commission.

(5) ***Action by Plan Commission.*** Within forty-five (45) days following the conclusion of the informal hearing, the Plan Commission shall transmit to the Common Council its recommendation. Failure of the commission to act within forty-five (45) days following the conclusion of such hearing shall be deemed a recommendation for the approval of the petitioned amendment as submitted.

(6) ***Public hearing.*** Within thirty (30) days of the receipt of the Plan Commission report, or its failure to act as above provided, (unless such time shall be extended by agreement with the petitioner) the Common Council shall hold a public hearing, advertised by a Class 2 notice.

(7) ***Action by Common Council.*** Within forty-five (45) days of the public hearing, the Common Council shall either approve or deny the petition unless the applicant requests an extension. If Council action is to approve the change, it shall further act to formally amend the Official Zoning Map by adopting an ordinance. In the case where the Plan Commission, excluding the chairman, unanimously denies the change, or in the case where a valid remonstrance as defined in Wisconsin Statutes §62.23(7)(d) is filed prior to the public hearing, a three-fourths (¾) vote of the members of the Common Council is required for approval of the amendment to this chapter.

(8) ***Reapplication time period.*** No application of a property owner or owner's designated agent for an amendment to the zoning map shall be considered by the Plan Commission within a one (1) year period following a denial of the same request by the Common Council, except that the Plan Commission may permit a new application if the request is for a different zoning district or for amended property boundaries.

(9) ***Concurrent actions for zoning amendment, planned development (PD) overlay and special use permit:***

a. Applicants may submit a single petition to amend the Official Zoning Map to change a base zoning district and designate the same map area as a PD overlay district.

b. Applicants may submit a single petition to amend the Official Zoning Map to change a base zoning district, designate the same map area as a PD overlay district and obtain approval for special uses within the PD overlay district. The procedure for considering such a request shall be the same as for a zoning map amendment. The Common Council may, at the request of the petitioner, consider the amendments and special uses as a single vote or separate votes. Any Common Council action which includes approval of a special use shall require a two-thirds (2/3) vote for approval.

(e) ***Zoning of annexed areas.*** All territory that is annexed to the City shall be assigned zoning classifications as recommended by the Plan Commission during review of the annexation petition. The Plan Commission shall consider the following criteria in selection of an appropriate zoning district for the annexed land:

(1) The existing land uses within the territory to be annexed;

(2) The surrounding land uses that exist on adjacent properties regardless of municipal boundary lines;

(3) The comprehensive plan of the City.

A temporary zoning classification of AG agricultural zoning classification shall be assigned to newly annexed territory with no hearing required. However, if the Plan Commission recommends a temporary zoning classification other than AG Agricultural, the Common Council shall hold a public hearing on the assigned zoning classifications in accordance with §23-65(d), Zoning amendments. If time allows, said zoning shall be included in the annexation ordinance; otherwise a temporary zoning classification shall be assigned with permanent zoning taking place following the annexation process.

The temporary zoning classification must be made permanent in accordance with §23-65(d), Map amendments, within ninety (90) days or the zoning will revert to AG agricultural zoning. A building permit shall not be granted until there is a permanent zoning classification.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96, Ord 46-00, §1, 6-10-00; Ord 121-05, §1, 10-25-05)

**Sec. 23-66. Special use permits.**

(a) ***Authority.*** The Common Council, by an affirmative two-thirds (2/3) vote of the entire Council, may by resolution, approve the issuance of a special use permit for uses listed as special uses in the manner set forth in this section.

(b) ***Purpose.*** Special uses are those uses having some uniqueness or unusual impact which requires a careful review of their location, design and configuration to determine against fixed standards, the desirability of permitting their establishment on any given site. They are uses that may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the community and neighborhood impact and effect as well as consistency to the comprehensive plan.

(c) ***Procedure.***

(1) ***Application.*** An owner or owner's designated agent wishing to secure a special use permit for his property shall meet with the Community and Economic Development Director to discuss the proposal. If the owner or owner's designated agent desires to pursue the special use permit, they shall obtain, complete and file a special use application form with the City Clerk's office accompanied by a nonrefundable application fee which may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review. One (1) copy of the development plans with a digital copy of the development plan file in AutoCAD or compatible form by electronic mail, on diskette or compact disk, if applicable, shall be submitted with the written application.

(2) ***Public hearing.*** After receiving the request, the City Clerk shall refer the matter to the Plan Commission, which shall hold a public hearing advertised by a Class 2 notice.

(3) ***Action by Plan Commission.*** The Plan Commission shall within forty-five (45) days of the public hearing make a report and recommendation of approval or denial of the special use permit with any conditions it may deem appropriate to the Common Council. In making its decision, the Commission shall keep a written record of findings relative to the standards for considering special use applications as listed in paragraph (e).

(4) ***Action by Common Council.*** The Common Council shall within forty-five (45) days of Plan Commission action act to approve or deny the special use permit by resolution.

(d) ***Application requirements.*** The applicant shall provide the following information on the special use application form:

(1) Applicant and property owner's name, address and telephone number.

(2) Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use designations.

(3) Description of special use being requested.

(4) Written justification for the special use being requested and supporting documentation describing how the applicant believes that the request conforms to the standards for special uses listed in subsection (e), Standards for granting special use permits, below.

(5) Development plan of property being proposed for a special use permit which shall supply the information as identified below:

a. North arrows, date of preparation, and scale on 8½" x 11" size paper.

b. Name(s) of all adjacent or surrounding streets and right-of-way width(s).

c. Recorded property lines and their dimensions.

d. All existing and proposed buildings and structures accessory to the principal use, including the use of each building or structure, dimensions and their locations on the parcel.

e. Dimensions of existing and proposed yard setbacks for buildings and structures.

f. Dimensions of existing and proposed parking, loading, and unloading areas, sidewalks and interior and perimeter landscaping areas. Identify proposed and existing surface material(s).

g. The location of existing and proposed trees, shrubs and grass.

h. The location and details of proposed and existing refuse containers and their enclosures.

i. The location of proposed and existing signage.

j. The location and type of all proposed and existing exterior lighting fixtures.

k. The location, height and materials of all proposed and existing fences or retaining walls.

l. The location and size of existing and proposed driveways.

m. The location of snow storage areas.

n. The location and use of buildings and structures on adjoining land.

o. Show the general landscaping concept for the site.

p. Indicate proposed hours of operation and number of employees.

q. Submit preliminary architectural plans for the existing and proposed buildings that show sufficient detail to permit an understanding of the style of the development and the design of the building(s).

r. Submit floor plan of the building(s), including room dimensions.

s. Other additional information that may be deemed appropriate by the Community and Economic Development Director.

(e) ***Standards for granting special use permits.*** No special use permit shall be recommended by the Plan Commission, or approved by the Common Council, unless it shall find that:

(1) ***Zoning.*** The proposed use conforms to the underlying zone district purpose and development standards and is in harmony with the general purposes and intent of the Appleton zoning ordinance. When there is an existing nonconforming structure, the development standards may be waived by the Common Council.

(2) ***Plans.*** The proposed use conforms to the VISION 20/20: Comprehensive Plan, any applicable urban design or other plan officially adopted by Common Council.

(3) ***Traffic.*** Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(4) ***Landscaping and screening.*** Appropriate landscaping and screening has been or will be provided to protect adjacent uses or properties from light, noise and other visual impacts that are associated with the proposed use as established in §23-172(g), Perimeter parking lot and loading space landscaping and §23-601, Landscaping and screening standards.

(5) ***Neighborhood compatibility.*** The proposed use is compatible with the predominant or prevailing land use of the neighborhood surrounding the proposed development.

(6) ***Services.*** Adequate facilities, access roads, drainage and/or necessary services have been or will be provided.

(f) ***Conditions, guarantees and validity period.***

(1) Prior to the granting of any special use permit, the Plan Commission may recommend and the Common Council may place such conditions and restrictions upon the establishment, location, construction, maintenance and method or hours of operation of the special use as is deemed necessary for the protection of the public interest and to secure compliance with the standards specified in paragraph (e). In all cases in which special uses are subject to conditions, the Plan Commission may recommend and the Common Council may require evidence and guarantees as it may deem necessary (as proof that the stipulated conditions are being and will be complied with).

(2) Special use permits shall be issued permanently or for a specified period of time as may be specified by the Common Council upon recommendation of the Plan Commission and shall be an obligation of any party to whom a property may be transferred or assigned.

(3) A special use permit shall expire if the use is discontinued for a period of twelve (12) consecutive months. If a building permit has not been obtained or the special use has not been established within twelve (12) months of the issuance of the special use permit, the special use permit expires.

(4) Any party who has been issued a Special Use Permit by the City shall notify the City, in writing, that they are seeking a continuance or extension of any Special Use Permit that has an expiration date as established by Common Council. Such notification shall be submitted to the Community and Economic Development Director thirty (30) days prior to the Special Use Permit expiration.

(5) A special use permit shall become effective upon approval by the Common Council. A record of the special use permit shall be kept in the City Clerk and Community and Economic Development Department's files.

(6) A special use permit may be revoked by the Common Council for failure to comply with all provisions of such permit provided that thirty (30) days notice has been given by first class mail to the operator or owner of such use of the intent to revoke.

(g) ***Major and minor changes to special uses.*** When an applicant requests a change in special use, the City shall review such change or modification to assure compatibility and compliance with the purpose of this section.

(1) ***Minor change.*** Minor changes shall be submitted to and reviewed by the Plan Commission. Minor changes include:

a. Expansions of special uses of less than ten percent (10%).

b. Other changes which keep with the general intent and character of the Special Use Permit previously issued.

(2) ***Major change.*** All other changes not identified as a "minor change" shall be deemed a major change in a special use and shall be submitted to Common Council for review per §23-66(c), Special use permits, procedure.

(h) ***Minimum standards.*** The following minimum standards shall apply to uses listed below. In such cases where the Common Council attaches more restrictive conditions, the more restrictive conditions shall apply.

(1) ***Electronic towers.*** Radio, television, broadcasting tower or station, microwave and other electronic transmission or receiving tower in excess of sixty (60) feet (from ground level) in height in any zone shall be subject to the following standards as illustrated on a site plan submitted with the application for special use permit. Electronic towers shall not include wireless telecommunication towers or facilities that are regulated in Article XIII, Wireless telecommunication facilities, of this zoning ordinance.

a. Distance of each freestanding tower base footing from any residentially zoned lot line shall have a horizontal distance equal to at least fifty percent (50%) of the height of the tower, or fifty (50) feet, whichever is greater.

b. Distance of any guyed tower anchor shall be twenty-five (25) feet from an adjoining lot line, public property or street right-of-way line.

c. The applicant shall demonstrate that the location of the tower will not cause electrical interference or health hazards to adjoining properties. If electrical interference occurs after the tower begins operation or if interference is anticipated, the applicant shall provide appropriate steps to eliminate said interference.

d. All towers shall be equipped with an anti-climbing device or fence to prevent unauthorized access.

e. Minimum landscaping features for all tower sites when abutting residential properties shall consist of at least one (1) row of staggered evergreen trees or shrubs, at least four (4) feet high at the time of planting, which are spaced not more than ten (10) feet apart and planted within twenty-five (25) feet of the site boundary.

f. The plans submitted for a building permit for tower construction shall be certified by a registered structural engineer, and shall meet the standards of the Federal Aviation Administration and the Federal Communications Commission.

(2) ***Utility substations and other utility structures.*** Utility substations or other utility structures in any zone shall be subject to the following additional standards:

a. All buildings and structures shall either have exteriors which give the appearance of a structure permitted in the zone where located or shall be screened from view from any adjacent property; any such screening located in a residential district shall include vegetation which provides effective year-round screening in addition to any fencing which may be deemed appropriate.

b. All such uses shall be fenced where any hazard to the safety of human life is present.

c. No service or storage yard for such facility shall be permitted which is not entirely enclosed and screened from public view.

d. Yards shall be provided as required for the zone in which the facility is to be located.

e. The level of noise emanating from such use shall not exceed sixty (60) decibels measured at any lot line of the subject property.

f. Electromagnetic radiation shall be effectively shielded to prevent any detrimental effect on adjacent residential properties.

g. No special use permit is required if the utility substation is proposed to be located fully inside an existing building and is accessory to the primary use of the building.

(3) ***Sexually-oriented establishment.***

Sexually-oriented establishments shall be as regulated in Article XII, Sexually-oriented establishments, of this zoning ordinance.

(Ord 204-11, §1, 9-27-11)

(4) ***Body repair and/or paint shop.***

a. All repair, painting and service of vehicles shall occur within a completely enclosed building.

b. No vehicles awaiting repair shall be located within the front yard of the lot or visible from any right-of-way or adjacent property and must be completely screened from view.

c. All outdoor display and storage must be screened to their full height from view from adjacent property in the side and rear yard.

d. No off-site impacts regarding noise, odor, hazardous materials discharge or vibration shall occur on adjacent properties.

(5) ***New and used automobile, RV, truck, cycle, boat sales and display lot.***

a. All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets and shall comply with the standards in §23-53, Outdoor lighting.

b. The minimum landscaping for display lots shall consist of the following landscaping standards:

1. Perimeter setbacks.

i. Side and rear yards shall be a minimum of a five (5) foot wide buffer except when abutting a residential or public-institutional district, then ten (10) feet.

ii. Front yards shall be a minimum of a five (5) foot wide buffer.

2. Perimeter landscape material.

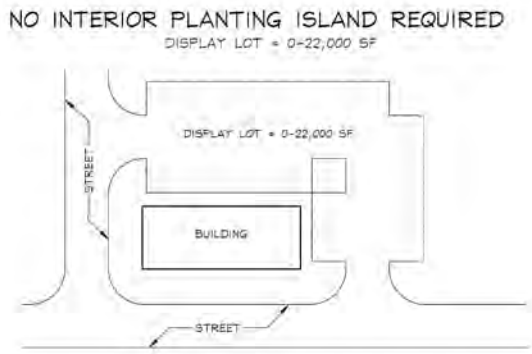
i. Side and rear yards shall have a minimum six (6) foot high, staggered row of evergreens when abutting a residential or public-institutional zoned district. The property owner may request a waiver from the Community and Economic Development Director to reduce the setback and provide a six (6) foot high alternating board on board fence with landscaping.

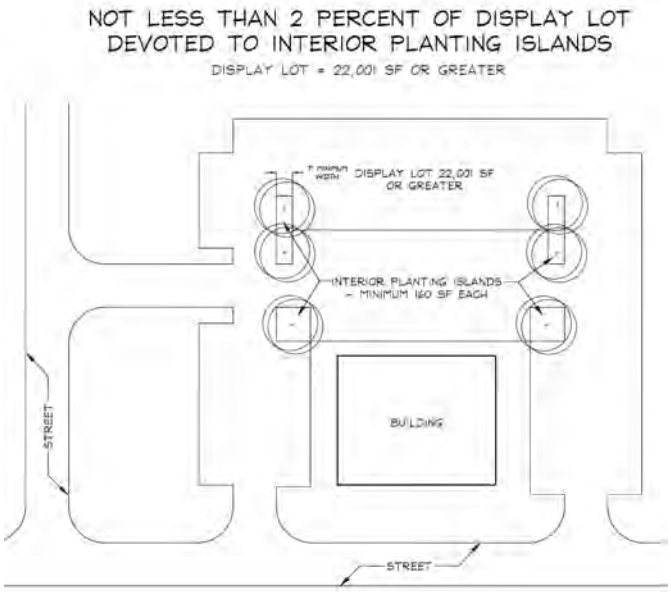
ii. Perimeters adjacent to the right-of-way (front yards) shall have a minimum one (1) foot high, staggered row of evergreen and deciduous shrubs across eighty percent (80%) of the lot frontage, excluding driveway openings. Furthermore, one (1) shade tree shall be provided at approximately every forty (40) feet on center when the site abuts a dedicated public street.

3. Interior landscaping.

i. Display lots 0-22,000 square feet in area – No interior planting islands required.

ii. Display lots 22,001 square feet in area or greater – Not less than two percent (2%) of the display lot area shall be devoted to interior planting islands. The planting islands may be centrally located within the display lot and contain a minimum of one hundred sixty (160) square feet and be a minimum of seven (7) feet in width.




4. Interior landscape material.

   The primary plant materials shall be deciduous trees with at least one (1) deciduous tree for every one hundred sixty (160) square feet of interior planting island area.

c. The outdoor display of merchandise and vehicles for sale shall not be located in areas intended for traffic circulation according to the site plan and development plan.

d. No outdoor loudspeakers shall be in use between the hours of 8:00 p.m. and 8:00 a.m. when adjacent to a residential district.

(6) ***Bars, taverns and restaurants with alcohol sales.***

a. Such establishments shall conform to the standards established in Chapter 9, Article III, Alcoholic beverages, of the Appleton Municipal Code.

b. The site shall be kept free of litter and debris.

(7) ***Circus or carnivals.***

a. In no case shall carnival rides or midways be within three hundred (300) feet of any residential district or residence.

b. All other approved temporary structures associated with the circus or carnival shall comply with the standards of §23-54.

(8) ***Gasoline sales.***

a. A minimum building site of eighteen thousand (18,000) square feet is required. Lot frontage shall be a minimum of one hundred twenty (120) feet if located on a designated arterial street.

b. A canopy constructed over gas pumps islands shall architecturally match the design of the main building and shall not exceed twenty-two (22) feet in height.

c. All canopy lighting must project downward and shall be of full cutoff design unless indirect lighting is to be used whereby light is directed upward and then reflected down from the ceiling of the structure. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the ceiling of the canopy and shall comply with the standards in §23-53, Outdoor lighting.

d. All pumps and canopies shall be located at forty (40) feet from any adjacent residentially zoned district.

e. All outdoor storage and outdoor display areas shall comply with §23-46, Outdoor storage and display in non-residential districts, of this chapter.

f. All pumps and canopies shall comply with the principal building setback requirements of the underlying zoning district.

(Ord 30-11, §1, 1-25-11)

(9) ***Helicopter landing pad.***

a. Setbacks, landscaping and fencing appropriate to the specific nature of the use proposed shall be established during the special use permit review process.

b. All areas for active use, including fuel storage, shall be fully screened from public view.

c. All helicopter landing pads shall be approved by the Federal Aviation Administration (FAA).

d. Unless necessary for medical or emergency purposes, the hours for operation shall be between 7:00 a.m. – 8:00 p.m.

(10) ***Mobile home parks.*** Mobile home parks shall meet the standards and requirements of the City of Appleton's Manufactured and Mobile Homes and Manufactured and Mobile Home Communities Ordinance (Ch. 11).

(11) ***Outdoor commercial entertainment.***

a. All structures, viewing areas or seating areas shall be setback at least two hundred (200) feet from any residentially zoned district.

b. All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets and shall comply with the standards in §23-53, Outdoor lighting.

c. The hours of operation shall be identified by the applicant and approved by the Common Council as part of the special use permit process.

(12) ***Outdoor kennels.***

Such uses shall conform to the standards established in Chapter 3, Animals, of the Appleton Municipal Code and as established below:

a. Outdoor kennels shall be fully enclosed with a fence to prevent animals from escaping the kennel.

b. Outdoor kennels shall not be located in any front or side yard.

c. Outdoor kennels shall be located no closer than twenty (20) feet from any rear or side property line.

d. Any portion of an outdoor kennel facing an adjacent property shall be screened from view by a solid fence, hedge or similar plant material not to exceed six (6) feet in height.

(13) ***Recycling and waste recovery center.***

a. All processing operations shall occur within a completely enclosed structure or building.

b. Outdoor storage shall be limited to drop-off recycling bins.

(14) ***Recycling collection point.***

a. Recycling collection points must be located in such a manner to prevent obstruction to traffic flow and circulation.

b. No processing of materials shall occur on premises.

c. Collection points should be located in public or semi-public areas such as shopping center parking lots, place of worship parking lots or City-owned lots.

(15) ***Towing business.***

a. No servicing or maintenance of vehicles shall occur on premises.

b. All storage areas shall be fully screened from view by an opaque fence, hedge or similar evergreen planting.

c. No vehicles shall be located outside of a storage area.

d. All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets and shall comply with the standards in §23-53, Outdoor lighting.

(16) ***Custom manufacturing.***

a. All custom manufacturing processes shall occur within a completely enclosed building.

b. No off-site impacts including noise, odor, heat generation, glare or vibration shall occur on adjacent properties.

c. The products or goods manufactured on premise shall be displayed or sold on premises.

d. The on-site production area and materials storage area for the products or goods manufactured on premises shall not occupy more than thirty percent (30%) of the gross floor area of the space occupied by the custom manufacturing use.

(17) ***Urban farm.***

a. **Use of produce and sales.** Retail sales of plants and produce grown on-site and other public use of the urban farm may occur between the hours of 8:00 a.m. and 8:00 p.m. every day of the week unless otherwise adjusted and stipulated by the Special Use Permit.

b. **Mechanical Equipment.** The operating of mechanical equipment or motor vehicle, including but not limited to lawn mowers, roto-tillers, garden tractors, motorized weed trimmers, “farm tractor”, “all terrain

vehicle" or any similar device, necessary for the maintenance of property shall only take place between the hours of 7:00 a.m. and 10:00 p.m. standard time or daylight savings time when in effect with the exception of snow removal equipment.

c. **Signs.** One identification sign is permitted not exceeding eight (8) feet in height or forty-eight (48) square feet per sign face, and shall be subject to other applicable provisions of ARTICLE XIV. SIGNS including, but not limited to, setback and clearance standards.

d. **Agricultural chemicals and seeds**. All seed and fertilizer shall be stored in a secured, rodent-proof container and housed within an enclosed structure.

e. **Accessibility.** The urban farm must comply with Americans with Disabilities Act design standards for accessible entrance routes and accessible routes between its different components and must follow universal design principles whenever possible.

f. **Planting area setback.** Development Standards. (See applicable zoning district for principal building/structure development standards).

g. **Size of buildings/structures.** All buildings, including but not limited to, tool sheds, rest-room facilities, composting toilets, and planting preparation houses, hoophouses and greenhouses may have a combined area of all buildings and structures not to exceed twenty-five percent (25%) percent of the lot area. Roof top gardens on buildings are exempt from this standard.

h. **Fences.** Fences are permitted as regulated in the underlying district unless otherwise authorized and stipulated by the Special Use Permit.

i. **Compost and waste management.** Composting and waste management must be managed according to the farm management plan. Compost material is limited only to the materials generated on-site and must be maintained on-site. Compost materials from the garden or gardeners shall be stored in a manner that is not visible from adjacent property (shielded from view by shrubbery or an enclosure). Composting shall be conducted in a manner that controls odor, prevents infestation, and minimizes runoff into waterways and onto adjacent properties. No compost material generated off site shall be composted at an urban farm unless specifically approved by the City.

j. **Site design.** The site must be designed so that water and fertilizers will not drain onto adjacent property or into the City's waste water system.

k. **Management plan.** Urban farms must prepare a management plan, to be reviewed as part of the special use process, to address how activities will be managed to avoid impacts on surrounding land uses and natural systems and includes any proposed mitigation measures. The management plan must include:

   i. A description of the type of equipment and vehicles necessary or intended for use in each season and the frequency and duration of anticipated use.

   ii. Disclosure of any intent to spray or otherwise apply agricultural chemicals or pesticides, frequency and duration of application, and the plants, diseases, pests or other purposes they are intended for.

   iii. Disclosure of the spreading of manure or any other waste generated by the agricultural use.

   iv. Disclosure of parking impacts related to the number of staff on-site during work hours, and the number of potential visitors regularly associated with the site.

   v. Disclosure of whether the operation of the urban farm would involve two thousand (2,000) square feet or more of land-disturbing activity, or would otherwise require drainage and/or erosion control approval under Chapter 24 of the Municipal Code.

   vi. A composting and waste management plan.

vii. Disclosure of any intent to invite the public to a program of events on the site.

viii. Site Plan contains, but is not limited to, the following:

- Parking facilities;

- Planting area including plant types;

- Location and number of rest room/sanitary facilities;

- Fence type, height and location;

- Sign size and location;

- Area to be utilized for produce cleaning and preparation;

- Area to be utilized for sales;

- Equipment, materials and fuel storage area;

- Composting location.

ix. Identification of water source.

x. Any additional information that may be deemed appropriate by the Director of Community and Economic Development or designee.

xi. Lighting.

xii. Security.

l. **Standard conditions of approval.** In addition to complying with Section 23-66 Special use permits of this ordinance and in determining whether to approve, approve with conditions or deny the application, the City shall consider the potential impacts, including:

i. **Water quality and soils.** Impacts of irrigation run-off on adjacent properties, water bodies and environmentally critical areas, and proposed sediment and erosion control measures.

ii. **Traffic and parking.** Impacts related to the number of staff onsite during work hours, and the number of potential visitors regularly associated with the site.

iii. **Visual impacts and screening.** Visual impacts relating to the proposed nature, location, design, and size of proposed buildings, structures and activities, including the location of composting activities and planting areas, and any existing or proposed screening.

iv. **Noise and odor.** Impacts related to the location on the lot of the proposed urban farm, any trash or compost storage areas, any farm stand or additional accessory structure, and any other noise-generating or odor-generating equipment and practices.

v. **Agricultural chemicals.** Impacts related to the use of chemicals, including any fertilizer and pesticide.

vi. **Mechanical equipment.** Impacts related to the operation of equipment, including noise, odors, and vibration.

m. **Compliance with laws.** All urban farms and their owners, lessees, employees, volunteers, and visitors must comply with all federal, state, and local laws and regulations relating to the operation, use, and enjoyment of the farm premises. Site users may not use materials such as inappropriate fill that introduce heavy metals or

other harmful contaminants to garden or farm sites. Site users may use pesticides only to the extent permitted by law.

These Urban Farm standards and requirements are intended to work in concert with other applicable Municipal Codes including, but not limited to, Chapter 3 Animals, Chapter 4 Building, Chapter 7 Health, Chapter 9, Licenses, Permits, and Chapter 21 Vegetation and any other applicable Appleton Municipal Code Chapter. These and any other applicable local, state and federal regulations shall also apply.

(18) ***Outdoor storage area for recreational vehicles.***

a. **Purpose**. The purpose of these regulations is to provide adequate and convenient areas for such outdoor storage of recreational vehicles while minimizing the visual, noise and environmental impacts to adjacent properties and public and private streets.

b. **Requirements**. Outdoor storage areas for recreational vehicles are accessory uses to personal storage facilities (self-storage/mini-warehouses) and shall be a special use in the C-2 District and a permitted accessory use in the M-2 District. No outdoor storage areas for recreational vehicles shall be constructed or established on a lot unless a personal storage (self-storage/mini-warehouse) facility has already been constructed on the same lot. In addition, all of the following requirements shall apply to outdoor storage areas for recreational vehicles:

i. **Applicable Outdoor Storage**. Outdoor storage shall be limited only to the following recreational vehicles: "camping trailer", "fifth-wheel trailer", or "motor home" as those terms are defined by §340.01, Wis. Stats., as well as boat trailers and boats, trailered snowmobiles, trailered jet-ski(s). All other vehicles, equipment and other items are prohibited from being stored within such outdoor storage area and on the lot.

ii. **Location**. No outdoor storage area shall be located between the principal building(s) and a front lot line.

iii. **Outdoor lighting**. All outdoor lighting used to illuminate such outdoor storage area shall comply with the outdoor lighting requirements of this chapter.

iv. **Surface material**. The surface material of the outdoor storage area and driveway leading from the lot line to such outdoor storage area shall be concrete or asphalt.

v. **Setbacks requirements**. The surface material of the outdoor storage area shall be located a minimum of fifteen (15) feet from a side and/or rear lot line.

vi. **Security requirements**. The perimeter (outer boundary) of the outdoor storage areas shall be secured with a continuous (with no break points) minimum eight (8) foot high fence or with continuous (with no break points) exterior building walls of existing and/or proposed buildings on the site or parcel or combinations of a continuous (with no break points) minimum eight (8) foot high fence and exterior building walls of existing and/or proposed buildings on the site or parcel in order to minimize unauthorized access to outdoor storage area, unless otherwise specified in this subsection.

vii. **Screening requirements**.

1. The perimeter (outer boundary) of the outdoor storage areas shall be screened with a continuous (with no break points) minimum eight (8) foot high opaque fence or continuous (with no break points) exterior building walls of existing and/or proposed buildings on the site or parcel or combinations of a continuous (with no break points) minimum eight (8) foot high opaque fence and exterior building walls of existing and/or proposed buildings on the site or parcel in order to minimize unauthorized access to the outdoor storage area and minimize visual impact of recreational vehicles stored in such area, unless otherwise specified in this subsection.

2. Where outdoor storage areas for recreational vehicles are proposed on parcels which abut a residential zoning district, a continuous staggered row of evergreens plantings shall be installed between the entire length of the opaque fencing and the lot line which abuts a residential zoning district but not including a gate, to soften the visual effect of the fencing. Evergreens shall be a minimum of six (6) feet high at the time of planting. The number of evergreens shall be determined and installed in accordance with the requirements with the species spacing and care requirements.

3. The following shall apply to opaque fences abutting a street:

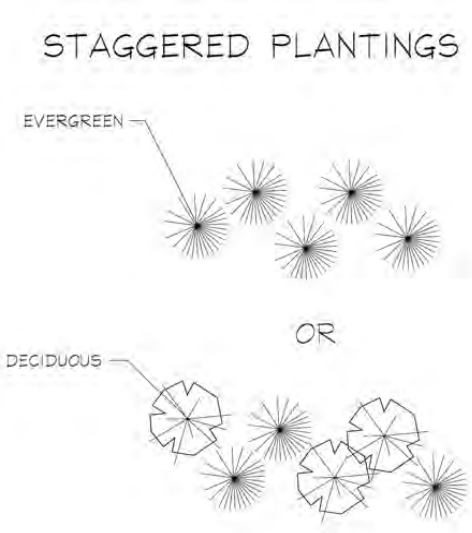
   a. **Front lot line setback**: Eight (8) feet minimum.

   b. **Fence height**: Eight (8) feet minimum.

   c. **Vision corner**: Fences shall comply with vision corner requirements of this chapter.

   d. **Design**: Chain-link or cyclone fences constructed of woven wire are not allowed.

   e. **Landscaping**: A continuous staggered row of evergreens and deciduous plantings shall be installed between the entire length of the opaque fence and the front lot line but not including a gate, to soften the visual effect of the fencing and use. Evergreens and deciduous plantings shall be a minimum of four (4) to five (5) feet high at the time of planting. The number of evergreens and deciduous plantings shall be determined and installed in accordance with the requirements with the species spacing and care requirements.




4. **Exceptions to perimeter fence and landscaping location**. Any request or necessity for locating a fence, opaque fence and/or evergreens and deciduous plantings other than along perimeter of the outdoor storage area, shall require review and approval of an alternate location as part of the special use permit for outdoor storage areas located in the C-2 Zoning District or site plan review and approval process for outdoor storage areas located in the M-2 Zoning District. Any approval action of alternate fence, opaque fence and/or evergreen and deciduous planting locations, shall be based upon the following criteria:

   a. The ability of the fence or opaque fence to maintain a continuous flow (with no break points) beyond the perimeter of the outdoor storage area.

   b. Effectiveness of the opaque fence and/or landscape plantings to effectively screen the outdoor storage area in an alternate location; and

c. Effectiveness of the fence and/or opaque fence to effectively secure the outdoor storage area in an alternate location;

d. Impact an alternative location may have on overall site appearance, vehicular traffic circulation and the functional well-being of the development proposed for the parcel.

5. **Modifications or waivers to screening and landscaping requirements**. Any request for a modification or waiver of the requirements of Section 23-66(h)18.b.vii.1., 2., and 3.e., but not including the minimum fence height dimension requirement identified in Section 23-66(h)18.b.vii.1., shall require review and approval of such modification or waiver as part of the special use permit for outdoor storage areas located in the C-2 Zoning District or site plan review and approval process for outdoor storage areas located in the M-2 Zoning District. Any approval action for a modification or waiver of the requirements of Section 23-66(h)18.b.vii.1., 2., and 3.e., but not including the minimum fence height dimension requirement identified in Section 23-66(h)18.b.vii.1., shall be based upon one (1) or more of the following conditions exist:

a. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree's maturity height due to topography or the location of the outdoor storage area on the lot.

b. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree's maturity height due to the presence of required screening, opaque fencing and/or landscaping on the lot.

c. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree's maturity height due to the presence of required screening, opaque fencing and/or landscaping on adjacent developed property and/or the presence of existing street trees located within the adjacent street right-of-way.

c. **General Conditions**. The following general conditions shall apply to outdoor storage areas for recreational vehicles:

i. Recreational vehicles shall not be parked outside of the designated outdoor storage area.

ii. Recreational vehicles shall not be used for business, living, sleeping or human habitation purposes.

iii. Recreational vehicles shall not be permanently connected to sewer lines, water lines, or electricity.

iv. No recreational vehicles are allowed to be stored within the designated outdoor storage area which is not currently licensed or operable.

v. The area between the property line and the opaque security fence shall be landscaped and suitable ground cover, such as grass, bark, ornamental gravel or combination thereof.

vi. The total combined square foot area of the outdoor storage area but not including the drive aisles within the perimeter of the outdoor storage area shall not exceed the total combined gross floor area of all personal storage (self-storage/mini-warehouse) buildings on the site or parcel.

(Ord 61-94, §5, 5-18-94; Ord 162-94, §1, 12-21-94; Ord 40-97, §1, 4-16-97; Ord 67-97, §1, 7-17-97; Ord 77-97, §1, 9-17-97; Ord 26-98, §1, 3-18-98; Ord 121-05, §1, 10-25-05; Ord 146-08, §1, 10-7-08; Ord 204-11, §1, 9-27-11; Ord 47-12, §1, 6-6-12; Ord 71-13, §1, 8-13-13)

**Sec. 23-67. Variances.**

(a) ***Purpose.*** The purpose of a variance is to allow relief from the strict application of this zoning ordinance as will not be contrary to the public interest and, where owing to special characteristics of the property or use, the literal enforcement of this ordinance would result in unnecessary hardship or in a practical difficulty for the property owner.

(b) ***Initiation.*** A variance request may be taken to the Board of Appeals by any person, firm, corporation, by any officer, department, board, bureau or commission with a legal or equitable interest in the property for which the variance is requested.

(c) ***Procedure.***

(1) Application. Application for a variance shall be filed with the Inspections Supervisor accompanied by a non-refundable application fee that may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review.

(2) Public hearing. After receiving an application, the Board of Appeals shall hold a public hearing on the application for variance which:

a. The Board of Appeals shall advertise the request by a Class 2 notice for public hearing;

b. The Board of Appeals shall notify all property owners located within one hundred (100) feet of the subject site a minimum of ten (10) days prior to the public hearing.

(d) ***Jurisdiction.*** In hearing and deciding variances, the Board shall have the power to grant relief from the terms of this chapter only in the following instances:

(1) Interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan, is shown upon the maps fixing the several districts, accompanying and made a part of this chapter, where the street layout actually on the ground varies from the street layout as shown on the aforesaid maps.

(2) Permit the reconstruction of a nonconforming building that has been damaged by explosion, fire, act of God or the public enemy, to the extent of more than fifty percent (50%) of the City of Appleton's market value, where the Board finds some compelling necessity requiring a continuance of the nonconforming building.

(3) Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an undue hardship upon the use of a lot, as contrasted with merely granting an advantage or a convenience and there is an acceptable parking alternative available.

(4) Permit a variation in the yard requirements of any district where there are unusual and practical difficulties or undue hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical, or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare.

(5) Nothing herein contained shall be construed to give or grant to the Board the power or authority to alter or change the zoning ordinance or the zoning map, such power and authority being reserved to the Common Council of Appleton as provided in §23-65, Zoning amendments.

(e) ***Review criteria.*** In considering all appeals and all proposed exceptions or variations to this chapter, the Board shall, before making any exceptions or variations from this chapter in a specific case, first determine that it will not:

(1) Impair an adequate supply of light and air to adjacent property; or

(2) Unreasonably increase the congestion in a public street; or

(3) Increase the danger of fire or endanger the public safety; or

(4) Unreasonably diminish or impair established property values within the surrounding area; or

(5) In any other respect impair the public health, safety, comfort, morals, appearance or welfare of the inhabitants of the City.

Furthermore, no variance from the provisions or requirements of this chapter shall be authorized by the Board of Appeals unless the Board finds that ALL of the following facts and conditions exist:

(6) ***Exceptional circumstances***. Where, by reason of the exceptional narrowness, shallowness, or unusual shape of a specific piece of property on the effective date of this code, or by reason of exceptional topographic conditions, or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjoining the piece of property in question, there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property, that do not apply generally to other properties or classes of uses on the same zoning district.

(7) ***Preservation of property rights***. That such variance is necessary for the preservation and enjoyment of substantial property rights which are possessed by other properties in the same zoning district and in the same vicinity.

(8) ***Absence of detriment***. That the authorizing of such variance will not be of substantial detriment to adjacent property, and will not materially impair the purposes of this code or the public interest.

(9) ***Not of general nature***. That the condition or situation of the subject property, or the intended use of the property, for which variance is sought, is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulations for such conditions or situation.

(f) ***Decisions.*** The concurring vote of four (4) members of the Board shall be necessary to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision.

(g) ***Relief.*** Any person or persons, jointly or severally aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the City, shall have recourse to such relief as is provided by Wisconsin Statutes §62.23(7)(e)(10).
(Ord 146-07, §1, 10-9-07)

**Sec. 23-68. Administrative appeals.**

(a) ***Purpose.*** The Board of Appeals shall hear and decide cases where it is alleged there is error of law in any order, requirement, decision or determination made by the Community and Economic Development Director or Inspections Supervisor in the enforcement of this zoning ordinance.

(b) ***Initiation.*** An appeal may be filed with the Board of Appeals by any person, firm or corporation, or by any office, department, board, bureau or commission affected by an administrative order, requirement, decision or determination of the Community and Economic Development Director or Inspections Supervisor.

(c) ***Process.***

(1) Such appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed was taken.

(2) The Board of Appeals shall hold a public hearing on the application for appeal advertised by a Class 2 notice for public hearing.

(d) ***Decisions.***

(1) The Board of Appeals shall hear testimony and evidence concerning appeals, and prepare findings of fact and shall render a final decision on all appeals.

(2) The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Community and Economic Development Director or Inspections Supervisor,

or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1c, 11-6-96)

**Sec. 23-69. Enforcement.**

(a) ***Enforcing officer.*** The Inspections Supervisor shall be responsible for enforcing the provisions of this chapter.

(b) ***Penalty.*** Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in §1-16 of the Municipal Code.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1b, 11-6-96)

**Secs. 23-70 – 23-90. Reserved.**

## ARTICLE V. RESIDENTIAL DISTRICTS

### Sec. 23-91. AG Agricultural district.

(a) ***Purpose.*** The AG district is intended for areas of active agricultural use that are subject to future urban or suburban development. Permitted land uses include relatively low density uses such as agriculture and uses which require large sites and relatively limited investment in fixed structures. This zoning district serves as a holding district for land that may be subject to rezoning for purposes other than agricultural uses.

(b) ***Principal permitted uses.*** The following uses are permitted as of right in the AG district:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • Dwelling, single family, detached. | • Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52.<br>• Governmental facilities.<br>• Public parks or playgrounds. | • Agriculture.<br>• Community garden.<br>• Greenhouse or greenhouse nursery.<br>• Nursery, orchards or tree farm.<br>• Urban farm pursuant to §23-66(h)(17) |

(c) ***Accessory uses.*** Accessory uses in the AG district may include:

(1) The accessory uses, buildings and structures specified in §23-43 are permitted as of right in the AG District.

(2) Bed and breakfast establishments pursuant to §23-48.

(3) Home occupation pursuant to §23-45.

(4) Fences and walls pursuant to §23-44.

(d) ***Temporary uses and structures.*** Temporary uses and structures specified in §23-54 may be permitted in the AG District.

(e) ***Special uses.*** Special uses in the AG district may include:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Essential services. | • Electronic towers pursuant to §23-66(h)(1)<br>• Outdoor commercial entertainment pursuant to §23-66(h)(11).<br>• Indoor kennel or outdoor kennel; pursuant to §23-66(h)(12). |

(f) ***Site plan.*** Prior to obtaining a permit for site plan uses as listed below, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(1) Governmental facilities.

(2) Earthen berms over three (3) feet in height.

(g) ***Development standards.*** The space limits applicable in the AG district are as follows:

(1) ***Minimum lot area.*** Ten (10) acres.

(2) ***Minimum lot width.*** One hundred fifty (150) feet.

(3) ***Minimum front yard.*** Thirty (30) feet.

(4) ***Minimum rear yard.*** Forty (40) feet.

(5) ***Minimum side yard.*** Forty (40) feet

(6) ***Maximum building height.*** One hundred (100) feet for non-residential uses. Thirty-five (35) feet for residential uses.

(7) ***Maximum lot coverage.*** Twenty percent (20%).

(h) ***Parking and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.
(Ord 121-05, §1, 10-25-05; Ord 83-07, §1, 5-8-07; Ord 90-08, §1, 5-27-08; Ord 147-08, §1, 10-7-08; Ord 48-12, §1, 6-6-12; Ord 49-12, §1, 6-6-12)

**Sec. 23-92. R-1A single-family district.**

(a) ***Purpose.*** The R-1A district is intended to provide for, and maintain, residential areas characterized predominately by single family detached dwellings on larger sized lots while protecting residential neighborhoods from the intrusion of incompatible non-residential land uses.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the R-1A district:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • Dwelling, single family, detached. | • Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52.<br>• Day care, adult; serving five (5) or fewer persons.<br>• Day care, family.<br>• Family home, adult (A) and (D), pursuant to §23-22.<br>• Family home, adult (B) and (C), pursuant to §23-52.<br>• Governmental facilities. | • None. |

(c) ***Accessory uses.*** Accessory uses in the R-1A district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-1A district, except for boats or boat trailers greater than twenty-six (26) feet in length.

(2) Bed and breakfast establishments pursuant to §23-48.

(3) Home occupation pursuant to §23-45.

(4) Fences and walls pursuant to §23-44.

(d) ***Temporary uses and structures.*** Temporary uses and structures specified in §23-54 may be permitted in the R-1A District.

(e) ***Special uses.*** Special uses in the R-1A district may include:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40-) foot setback from any lot line of the cemetery.<br>• Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52.<br>• Day care, group, when located and | • Electronic towers pursuant to §23-66(h)(1).<br>• Recycling collection point; pursuant to §23-66(h)(14).<br>• Urban farm pursuant to §23-66(h)(17). |

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| | operated in an educational institution, place of worship or semi-public building.<br>• Educational institution; business, technical or vocational school.<br>• Educational institution; college or university.<br>• Educational institution; elementary school, junior high school, or high school.<br>• Essential services.<br>• Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure.<br>• Marina and/or boat landing.<br>• Place of worship.<br>• Public parks or playgrounds.<br>• Recreation facility, non-profit.<br>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building. | |

(f) ***Site plan.*** Prior to obtaining a building permit for site plan uses as listed below, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(1) Governmental facilities.

(2) Place of worship.

(3) Educational institution; elementary school, junior high school, high school.

(4) Educational institution; college or university.

(5) Educational institution; business, technical or vocational school.

(6) Earth berms over three (3) feet in height.

(g) ***Development standards.*** The space limits applicable in the R-1A district are as follows:

(1) ***Minimum lot area.*** Eight thousand (8,000) square feet.

(2) ***Maximum lot coverage.*** Forty percent (40%).

(3) ***Minimum lot width.*** Seventy (70) feet.

(4) ***Minimum front yard.*** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).

(5) ***Minimum rear yard.*** Twenty-five (25) feet.

(6) ***Minimum side yard.*** Eight (8) feet.

(7) ***Maximum building height.*** Thirty-five (35) feet.

(h) ***Parking and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.
(Ord 121-05, §1, 10-25-05; Ord 84-07, §1, 5-8-07; Ord 91-08, §1, 5-27-08; Ord 148-08, §1, 10-7-08)

**Sec. 23-93. R-1B single-family district.**

(a) ***Purpose.*** The R-1B district is intended to provide for and maintain residential areas characterized predominately by single-family, detached dwellings on medium sized lots while protecting residential neighborhoods from the intrusion of incompatible non-residential uses.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the R-1B district:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • Dwelling, single-family, detached. | • Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52.<br>• Day care, adult; serving five (5) or fewer persons.<br>• Day care, family.<br>• Family home, adult (A) and (D), pursuant to §23-22.<br>• Family home, adult (B) and (C), pursuant to §23-22 and §23-52.<br>• Governmental facilities. | • None. |

(c) ***Accessory uses.*** Accessory uses in the R-1B district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-1B district, except for boats or boat trailers greater than twenty-six (26) feet in length.

(2) Bed and breakfast establishments pursuant to §23-48.

(3) Home occupation pursuant to §23-45.

(4) Fences and walls pursuant to §23-44.

(d) ***Temporary uses and structures.*** Temporary uses and structures specified in §23-54 may be permitted in the R-1B District.

(e) ***Special uses.*** Special uses in the R-1B district may include:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40) foot setback from any lot line of the cemetery.<br>• Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52.<br>• Day care, group, when located and operated in an educational institution, place of worship or semi-public building.<br>• Educational institution; business, technical or vocational school<br>• Educational institution; college or university.<br>• Educational institution; elementary school, junior high school or high school.<br>• Essential services.<br>• Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from | • Electronic towers pursuant to §23-66(h)(1).<br>• Recycling collection point pursuant to §23-66(h)(14).<br>• Urban farm pursuant to §23-66(h)(17). |

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| | any residential structure.<br>• Marina and/or boat landing.<br>• Place of worship.<br>• Public parks or playgrounds.<br>• Recreation facility, non-profit.<br>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building. | |

(f) ***Site plan.*** Prior to obtaining a building permit for site plan uses as listed below, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(1) Governmental facilities.

(2) Place of worship.

(3) Educational institution; elementary school, junior high school, high school.

(4) Educational institution; college or university.

(5) Educational institution; business, technical or vocational school.

(6) Earth berms over three (3) feet in height.

(g) ***Development standards.*** The space limits applicable in the R-1B district are as follows:

(1) ***Minimum lot area.*** Six thousand (6,000) square feet.

(2) ***Maximum lot coverage.*** Fifty percent (50%).

(3) ***Minimum lot width.*** Fifty (50) feet.

(4) ***Minimum front yard.*** Twenty (20) feet (twenty-five (25) foot minimum on arterial street).

(5) ***Minimum rear yard.*** Twenty-five (25) feet.

(6) ***Minimum side yard.*** Six (6) feet.

(7) ***Maximum building height.*** Thirty-five (35) feet.

(h) ***Parking and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.
(Ord 121-05, §1, 10-25-05; Ord 85-07, §1, 5-8-07; Ord 118-07, §1, 7-24-07; Ord 92-08, §1, 5-27-08; Ord 149-08, §1, 10-7-08; Ord 51-12, §1, 6-6-12)

**Sec. 23-94. R-1C central city residential district.**

(a) ***Purpose.*** The R-1C district is intended to provide for the conservation and revitalization of residential areas located in the oldest parts of the City characterized predominately by single-family, detached dwellings on small sized lots of record while protecting residential neighborhoods from the intrusion of incompatible non-residential uses.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the R-1C district:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • Dwelling, single-family, detached. | • Community living arrangements service eight (8) or fewer persons, | • None. |

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| | pursuant to §23-22 and §23-52.<br>• Day care, adult; serving five (5) or fewer persons.<br>• Day care, family.<br>• Family home, adult (A) and (D), pursuant to §23-22.<br>• Family home, adult (B) and (C), pursuant to §23-22 and §23-52.<br>• Governmental facilities. | |

(c) ***Accessory uses.*** Accessory uses in the R-1C district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-1C district, except for boats or boat trailers greater than twenty-six (26) feet in length.

(2) Bed and breakfast establishments pursuant to §23-48.

(3) Home occupation pursuant to §23-45.

(4) Fences and walls pursuant to §23-44.

(d) ***Temporary uses and structures.*** Temporary uses and structures specified in Section 23-54 may be permitted in the R-1C District.

(e) ***Special uses.*** Special uses in the R-1C district may include:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| | • Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52.<br>• Day care, group, when located and operated in an educational institution, place of worship or semi-public building.<br>• Essential services.<br>• Place of worship.<br>• Public parks or playgrounds.<br>• Recreation facility, non-profit.<br>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building. | • Electronic towers pursuant to §23-66(h)(1)<br>• Recycling collection point pursuant to §23-66(h)(14).<br>• Urban farm pursuant to §23-66(h)(17). |

(f) ***Site plan.*** Prior to obtaining a building permit for site plan uses as listed below, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(1) Governmental facilities.

(2) Place of worship.

(3) Earth berms over three (3) feet in height.

(g) ***Development standards.*** The space limits applicable in the R-1C district are as follows:

(1) ***Minimum lot area:***

a. Four thousand (4,000) square feet for single-family detached dwellings.

b. Six thousand (6,000) square feet for all other uses.

(2) ***Maximum lot coverage.*** Seventy-five percent (75%).

(3) ***Minimum lot width.***

a. Forty (40) feet for single-family detached dwellings.

b. Fifty (50) feet for all other uses.

(4) ***Minimum front yard.***

a. Ten (10) feet.

b. Twenty (20) feet on an arterial street.

(5) ***Minimum rear yard.*** Twenty-five (25) feet.

(6) ***Minimum side yard.***

a. Five (5) feet for single-family dwellings.

b. Six (6) feet for all other uses.

(7) ***Maximum building height.*** Thirty-five (35) feet.

(h) ***Parking and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.
(Ord 121-05, §1, 10-25-05; Ord 86-07, §1, 5-8-07; Ord 19-07, §1, 7-24-07; Ord 93-08, §1, 5-27-08; Ord 150-08, §1, 10-7-08; Ord 52-12, §1, 6-6-12)

**Sec. 23-95. R-2 two-family district.**

(a) ***Purpose.*** The R-2 district is intended to provide for and maintain residential areas characterized by single-family detached and two- (2-) family dwelling units. Increased densities and the introduction of two- (2-) family housing types are intended to provide for greater housing options for owners and renters while maintaining the basic qualities of a moderately dense residential neighborhood.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the R-2 district:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • Dwelling, single-family, detached.<br>• Dwelling, two-family. | • Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52.<br>• Day care, adult; serving five (5) or fewer persons.<br>• Day care, family.<br>• Family home, adult (A) and (D), pursuant to §23-22.<br>• Family home, adult (B) and (C), pursuant to §23-22 and §23-52.<br>• Governmental facilities. | • None. |

(c) ***Accessory uses.*** Accessory uses in the R-2 district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-2 district, except for boats or boat trailers greater than twenty-six (26) feet in length.

(2) Bed and breakfast establishments pursuant to §23-48.

(3) Home occupation pursuant to §23-45.

(4) Fences and walls pursuant to §23-44.

(d) ***Temporary uses and structures.*** Temporary uses and structures specified in §23-54 may be permitted in the R-2 District.

(e) ***Special uses.*** Special uses in the R-2 district may include:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40-) foot setback from any lot line of the cemetery.<br>• Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52.<br>• Day care, group, when located and operated in an educational institution, place of worship or semi-public building.<br>• Educational institution; business, technical or vocational school.<br>• Educational institution; college or university.<br>• Educational institution; elementary school, junior high school, or high school.<br>• Essential services.<br>• Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure.<br>• Marina and/or boat landing.<br>• Place of worship.<br>• Public parks or playgrounds.<br>• Recreation facility, non-profit.<br>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building. | • Electronic towers pursuant to §23-66(h)(1)<br>• Recycling collection point pursuant to §23-66(h)(14).<br>• Urban farms pursuant to §23-66(h)(17). |

(f) ***Site plan.*** Prior to obtaining a building permit for site plan uses as listed below, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(1) Governmental facilities.

(2) Place of worship.

(3) Educational institution; elementary school, junior high school, high school.

(4) Educational institution; college or university.

(5) Educational institution; business, technical or vocational school.

(6) Earth berms over three (3) feet in height.

(g) ***Development standards.*** The space limits applicable in the R-2 district are as follows:

(1) ***Minimum lot area:***

a. Six thousand (6,000) square feet for single-family dwelling.

b. Seven thousand (7,000) square feet for two story two-family dwellings.

c. Nine thousand (9,000) square feet for single story two-family dwelling.

d. Seven thousand (7,000) square feet for all other uses.

(2) ***Maximum lot coverage.*** Sixty percent (60%).

(3) ***Minimum lot width:***

a. Fifty (50) feet for single-family dwellings.

b. Seventy (70) feet for all other uses.

(4) ***Minimum front yard.*** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).

(5) ***Minimum rear yard.*** Twenty-five (25) feet.

(6) ***Minimum side yard.*** Six (6) feet.

(7) ***Maximum building height.*** Thirty-five (35) feet.

(h) ***Parking and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.
(Ord 121-05, §1, 10-25-05; Ord 87-07, §1, 5-8-07; Ord 94-08, §1, 5-27-08; Ord 151-08, §1, 10-7-08; Ord 53-12, §1, 6-6-12)

**Sec. 23-96. R-3 multifamily district.**

(a) ***Purpose.*** The R-3 district is intended to provide for and maintain residential areas characterized by multiple family dwellings, while maintaining the basic qualities of a dense residential neighborhood, which may include other housing types and institutional and limited non-residential uses.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the R-3 district:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • Assisted living facility or retirement home.<br>• Dwelling, multi-family, of three (3) or more units, apartment building, or townhouse.<br>• Dwelling, single-family, detached.<br>• Dwelling, two-family.<br>• Nursing or convalescent home.<br>• Residential care apartment complex. | • Community living arrangements serving fifteen (15) or fewer persons, pursuant to §23-22 and §23-52.<br>• Day care, adult; serving five (5) or fewer persons.<br>• Day care, family.<br>• Family home, adult (A) and (D), pursuant to §23-22.<br>• Family home, adult (B) and (C), pursuant to §23-22 and §23-52.<br>• Governmental facilities. | • None. |

(c) ***Accessory uses.*** Accessory uses in the R-3 district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-3 district, except for boats or boat trailers greater than twenty-six (26) feet in length.

(2) Bed and breakfast establishments pursuant to §23-48.

(3) Home occupation pursuant to §23-45.

(4) Fences and walls pursuant to §23-44.

(d) ***Temporary uses and structures.*** Temporary uses and structures specified in §23-54 may be permitted in the R-3 District.

(e) ***Special uses.*** Special uses in the R-3 district may include:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • Manufactured and mobile home communities; pursuant to §23-66(h)(10) and Chapter 11 of the Municipal Code. | • Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40) foot setback from any lot line of the cemetery.<br>• Community living arrangements serving sixteen (16) or more persons, pursuant to §23-22 and §23-52.<br>• Day care, group, when located and operated in an educational institution, place of worship or semi-public building.<br>• Educational institution; business, technical or vocational school.<br>• Educational institution; college or university.<br>• Educational institution; elementary school, junior high school or high school.<br>• Essential services.<br>• Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure.<br>• Group home, adult.<br>• Group housing.<br>• Marina and/or boat landing.<br>• Place of worship.<br>• Public parks or playgrounds.<br>• Recreation facility, non-profit.<br>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building. | • Electronic towers pursuant to §23-66(h)(1)<br>• Recycling collection point pursuant to §23-66(h)(14).<br>• Shelter facility.<br>• Urban farms pursuant to §23-66(h)(17). |

(f) ***Site plan.*** Prior to obtaining a building permit for any use except for one- (1-) and two- (2-) family dwellings on land in the R-3 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) ***Development standards.*** The space limits applicable in the R-3 district are as follows:

(1) ***Minimum lot area.***

a. Six thousand (6,000) square feet for single-family dwelling.

b. Seven thousand (7,000) square feet for two (2) story two- (2-) family dwellings.

c. Nine thousand (9,000) square feet for single story two- (2-) family dwelling.

d. Three thousand (3,000) square feet per dwelling unit for multi-family dwellings.

e. Seven thousand (7,000) square feet for all other uses.

(2) ***Maximum lot coverage.*** Seventy percent (70%).

(3) ***Minimum lot width.***

a. Fifty (50) feet for single-family dwellings.

b. Seventy (70) feet for two- (2-) family dwellings.

c. Eighty (80) feet for all other uses.

(4) ***Minimum front yard.***

a. Twenty (20) feet.

b. Twenty-five (25) feet if located on an arterial street.

(5) ***Minimum rear yard.*** Thirty-five (35) feet.

(6) ***Minimum side yard.***

a. Six (6) feet for single and two-family dwellings.

b. Twenty (20) feet all other uses.

(7) ***Minimum setback from single or two-family lot line.*** Thirty (30) feet.

(8) ***Maximum building height:***

a. Thirty-five (35) feet for single- and two- (2-) family dwellings.

b. Forty-five (45) feet or all other uses.

(9) ***Minimum distance between multi-family buildings.*** Twelve (12) feet.

(h) ***Parking and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.
(Ord 121-05, §1, 10-25-05; Ord 88-07, §1, 5-8-07; Ord 85-08, §1, 5-27-08; Ord 137-08, §1, 10-7-08; Ord 152-08, §1, 10-7-08; Ord 54-12, §1, 6-6-12)

**Secs. 23-97 – 23-99. Reserved.**

**Sec. 23-100. P-I public institutional district.**

(a) ***Purpose.*** The P-I district is intended to provide for public and institutional uses and buildings, utilized by the community, and to provide open space standards where necessary for the protection of adjacent residential properties.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the P-I district:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • Assisted living facility or retirement home.<br>• Nursing or convalescent home. | • Community living arrangements serving one (1) or more persons, pursuant to §23-22 and §23-52.<br>• Educational institution; business, technical or vocational school.<br>• Educational institution; college or university.<br>• Educational institution; elementary school, junior high school, or high school.<br>• Family home, adult (A) and (D), pursuant to §23-22.<br>• Family home, adult (B) and (C), pursuant to §23-22 and §23-52.<br>• Governmental facility.<br>• Group housing.<br>• Hospital.<br>• Marina and/or boat landing.<br>• Museum.<br>• Place of worship.<br>• Public parks or playgrounds.<br>• Recreation facility, non-profit.<br>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building. | • Multi-tenant buildings. |

(c) ***Accessory uses.*** Accessory uses in the P-I district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the P-I district.

(2) Fences and walls pursuant to §23-44.

(d) ***Temporary uses and structures.*** Temporary uses and structures specified in §23-54 may be permitted in the P-I District.

(e) ***Special uses.*** Special uses in the P-I district may include:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40-) foot setback from any lot line of the cemetery.<br>• Day care, group, when located and operated in an educational institution, place of worship or semi-public building.<br>• Essential services.<br>• Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure. | • Circus or carnival. However, carnival rides or midways shall not be located within three hundred (300) feet of any residential district and shall be pursuant to §23-66(h)(7).<br>• Community garden.<br>• Electronic towers pursuant to §23-66(h)(1)<br>• Helicopter landing pads pursuant to §23-66(h)(9).<br>• Parking garage.<br>• Recycling collection point |

| | | |
|---|---|---|
| | | pursuant to §23-66(h)(14).<br>• Recycling and waste recovery center pursuant to §23-66(h)(13).<br>• Shelter facility.<br>• Tower or antenna for telecommunication services, pursuant to Article XIII.<br>• Urban farms pursuant to §23-66(h)(17). |

(f) ***Site plan.*** Prior to obtaining a building permit on any land in the P-I district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) ***Parking and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) ***Development standards.*** The space limits applicable in the P-I district are as follows:

(1) ***Minimum lot area.*** None.

(2) ***Maximum lot coverage.*** Seventy percent (70%).

(3) ***Minimum lot width.*** None.

(4) ***Minimum front yard.*** Twenty (20) feet plus an additional one (1) foot for each two (2) feet that the building or structure exceeds thirty-five (35) feet in height.

(5) ***Minimum rear yard.*** Twenty (20) feet plus an additional one (1) foot for each two (2) feet that the building or structure exceeds thirty-five (35) feet in height.

(6) ***Minimum side yard.*** Twenty (20) feet plus an additional one (1) foot for each two (2) feet that the building or structure exceeds thirty-five (35) feet in height.

(7) ***Maximum building height.*** Sixty (60) feet.

(Ord 121-05, §1, 10-25-05; Ord 89-07, §1, 5-8-07; Ord 96-08, §1, 5-27-08; Ord 138-08, §1, 10-7-08; Ord 153-08, §1, 10-7-08; Ord 55-12, §1, 6-6-12; Ord 56-12, §1, 6-6-12)

***The P-I District Setback Example is located on the following page.***

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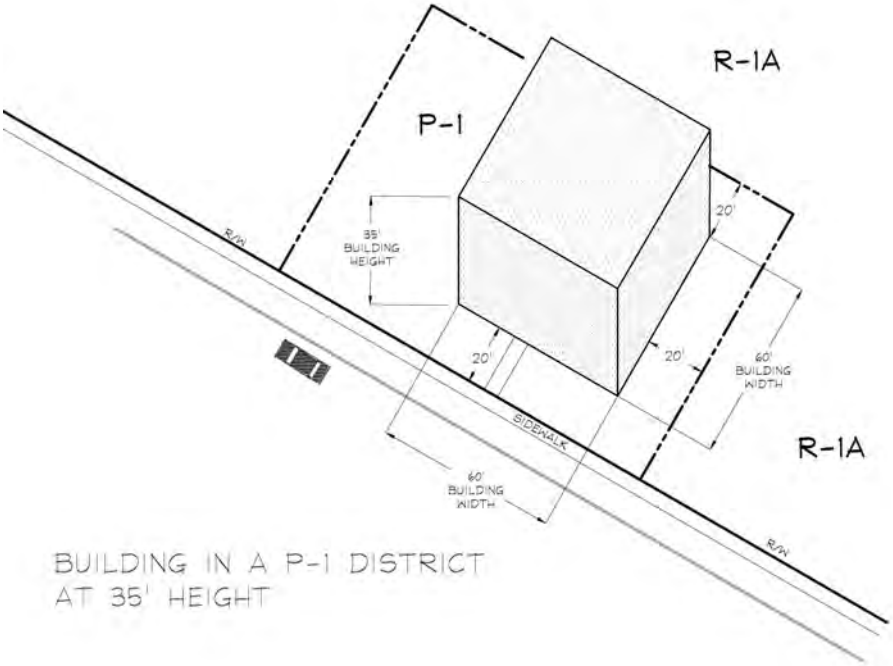
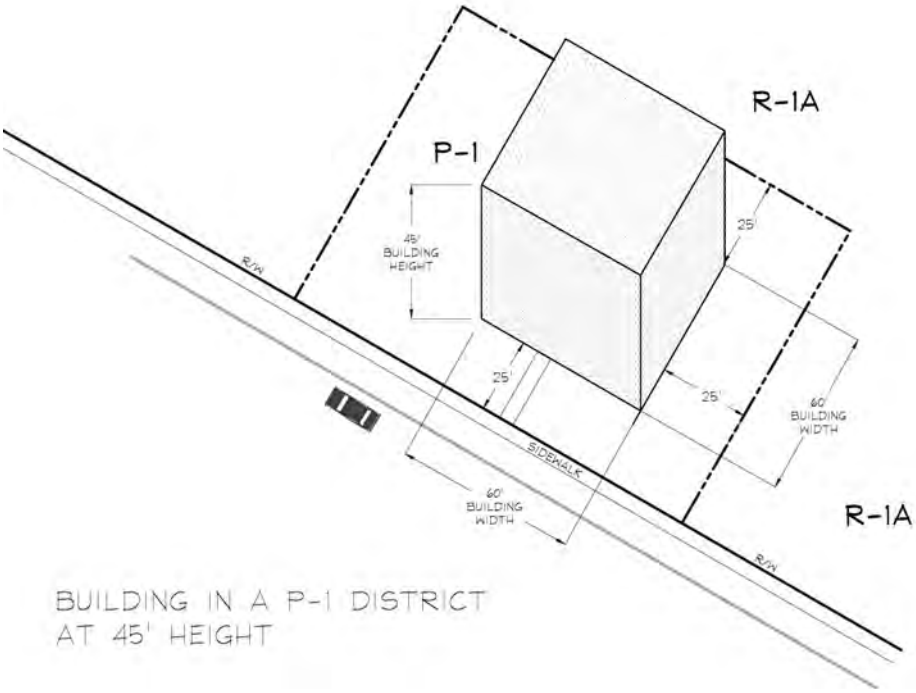
***P-I Setback Example***

BUILDING SETBACKS




BUILDING IN A P-1 DISTRICT
AT 35' HEIGHT




BUILDING IN A P-1 DISTRICT
AT 45' HEIGHT

**Sec. 23-101. NC nature conservancy district.**

(a) ***Purpose.*** The purpose of the NC nature conservancy district is to:

(1) Discourage development and disturbance to the natural environment in areas with unique features.

(2) Give primary consideration to outdoor recreation and forestry pursuits.

(3) Provide areas where native flora and fauna may prosper in a natural habitat.

(b) ***Principal permitted uses.*** The following uses are permitted within the NC nature conservancy district:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Bicycle or hiking trails.<br>• Dams, power stations, transmission lines.<br>• Fishing.<br>• Harvesting of wild crops such as marsh hay, mushrooms, moss, berries, fruit trees and tree seeds.<br>• Management of forestry and fish.<br>• Public or private parks which provide passive recreation pursuits.<br>• Water pumping and storage facilities. | • None. |

(c) ***Accessory uses.*** The accessory use, buildings and structures set forth in §23-43 may be permitted as of right in the NC district.

(d) ***Prohibited uses and activities.*** The following uses and activities shall be prohibited within the NC nature conservancy district:

(1) Structures for human habitation.

(2) Any placement of fill within the conservancy districts.

(e) ***Development standards.*** The space limits applicable in the NC nature conservancy district are as follows:

(1) ***Minimum lot area.*** None.

(2) ***Minimum lot width.*** None.

(3) ***Minimum front yard.*** Twenty-five (25) feet.

(4) ***Minimum rear yard.*** Twenty-five (25) feet.

(5) ***Minimum side yard.*** Twelve (12) feet.

(6) ***Maximum building height.*** Twenty-five (25) feet.

(f) ***Parking and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.

(g) ***Tree cutting and shrubbery clearing prohibited.*** Parcels lying within the NC nature conservancy district shall not be clear-cut of trees, shrubbery or underbrush. No more than ten percent (10%) of the natural vegetation shall be removed from a parcel in any one (1) given calendar year. Normal pruning, trimming, and shearing of vegetation; removal of dead, diseased, insect-infested vegetation; and silvicultural thinning conducted under the recommendation of a forester shall be exempt from this restriction.
(Ord 138-06, §1, 11-21-06; Ord 97-08, §1, 5-27-08; Ord 11-14, §1, 4-8-14)

**Secs. 23-102 – 23-110. Reserved.**

## ARTICLE VI. COMMERCIAL DISTRICTS

### Sec. 23-111. C-O commercial office district

(a) ***Purpose.*** This district is intended to provide a buffer between commercial and residential areas by permitting professional or business offices that serve the general public. Stringent setback and landscaping standards required in this district will create a visual screen for adjacent properties.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the C-O district.

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Clubs.<br>• Educational institutions; business, technical or vocational school.<br>• Educational institutions; college or university.<br>• Governmental facilities.<br>• Museums.<br>• Places of worship.<br>• Public parks or playgrounds.<br>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building. | • Multi-tenant building.<br>• Offices.<br>• Personal services.<br>• Professional services.<br>• Veterinarian clinics. |

(c) ***Accessory uses.*** Accessory uses in the C-O district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-O district.

(2) Residential dwellings at least ten (10) feet above the street grade of the building.

(3) Day care, group; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.

(4) Drive through facility pursuant to §23-49.

(5) Home occupation pursuant to §23-45.

(6) Fences and walls pursuant to §23-44.

(d) ***Temporary uses and structures.*** Temporary uses and structures specified in §23-54 may be permitted in the C-O District.

(e) ***Special uses.*** Special uses in the C-O district may include:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Educational institutions; elementary school, junior high school. or high school.<br>• Essential services.<br>• Golf courses. However the clubhouse, practice driving range, practice greens or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure. | • Electronic towers pursuant to §23-66(h)(1).<br>• Helicopter landing pads pursuant to §23-66(h)(9).<br>• Parking garages.<br>• Recycling collection point pursuant to §23-66(h)(14).<br>• Tower or antenna for telecommunication services, pursuant to Article XIII. |

(f) ***Site plan.*** Prior to obtaining a building permit on any land in the C-O district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) ***Parking and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) ***Development standards.*** The space limits applicable in the C-O district are as follows:

(1) ***Minimum lot area.*** Nine thousand (9,000) square feet.

(2) ***Maximum lot coverage.*** Sixty percent (60%).

(3) ***Minimum lot width.*** Eighty (80) feet.

(4) ***Minimum front yard.*** Twenty (20) feet.

(5) ***Minimum rear yard:***

a. Twenty-five (25) feet.

b. Forty (40) feet if abutting a residentially-zoned district.

(6) ***Minimum side yard:***

a. Ten (10) feet.

b. Forty (40) feet if abutting a residentially-zoned district.

(7) ***Maximum building height.*** Thirty-five (35) feet.
(Ord 121-05, §1, 10-25-05; Ord 154-08, §1, 10-7-08)

**Sec. 23-112. C-1 neighborhood commercial district.**

(a) ***Purpose.*** The C-1 district is intended to provide for businesses and services that are enclosed in buildings and that are small in size; to provide convenience goods and services to local residents; and to identify businesses that can be located close to residential properties without being detrimental to the residential neighborhood.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the C-1 district.

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Clubs. | • Multi-tenant building. |

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| | • Day care, group.<br>• Governmental facilities.<br>• Museums.<br>• Places of worship.<br>• Public parks or playgrounds.<br>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building. | • Offices.<br>• Personal services.<br>• Professional services.<br>• Retail businesses under 5,000 square feet in floor area.<br>• Urban farms pursuant to §23-66(h)(17).<br>• Veterinarian clinics. |

(c) ***Accessory uses.*** Accessory uses in the C-1 district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-1 district.

(2) Residential dwellings at least ten (10) feet above the street grade of the building.

(3) Drive through facility pursuant to §23-49.

(4) Home occupation pursuant to §23-45.

(5) Outdoor storage and display pursuant to §23-46.

(6) Fences and walls pursuant to §23-44.

(d) ***Temporary uses and structures.*** Temporary uses and structures specified in §23-54 may be permitted in the C-1 district.

(e) ***Special uses.*** Special uses in the C-1 district may include:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Educational institutions; elementary school, junior high school or high school.<br>• Essential services.<br>• Recreation facilities, non-profit. | • Commercial entertainment; excluding sexually-oriented establishments.<br>• Electronic towers pursuant to §23-66(h)(1)<br>• Parking garages.<br>• Outdoor commercial entertainment pursuant to §23-66(h)(11).<br>• Recycling collection points pursuant to §23-66(h)(14).<br>• Restaurants (without alcohol).<br>• Restaurants, fast food.<br>• Tower or antenna for telecommunication services pursuant to Article XIII.<br>• Veterinarian clinics, with all activity within enclosed buildings and with no animals boarded overnight. |

(f) ***Site plan.*** Prior to obtaining a building permit on any land in the C-1 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) ***Parking and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.

(h) ***Development standards.*** The space limits applicable in the C-1 district are as follows:

(1) ***Minimum lot area.*** Nine thousand (9,000) square feet.

(2) ***Maximum lot coverage.*** Seventy percent (70%).

(3) ***Minimum lot width.*** Seventy (70) feet.

(4) ***Minimum front yard.*** Twenty (20) feet.

(5) ***Minimum rear yard:***

a. Twenty (20) feet.

b. Twenty-five (25) feet if abutting a residentially zoned district.

(6) ***Minimum side yard:***

a. Ten (10) feet.

b. Twenty (20) feet if abutting a residentially zoned district.

(7) ***Maximum building height.*** Thirty-five (35) feet.
(Ord 121-05, §1, 10-25-05; Ord 99-08, §1, 5-27-08; Ord 155-08, §1, 10-7-08; Ord 205-11, §1, 9-27-11; Ord 57-12, §1, 6-6-12)

**Sec. 23-113. C-2 general commercial district.**

(a) ***Purpose.*** This district is intended to provide for businesses which serve city and regional markets; provide goods and services to other businesses, as well as consumers, provide services to automobiles and serve the traveling public.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the C-2 district:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • Assisted living or retirement homes.<br>• Nursing or convalescent homes. | • Clubs.<br>• Day care, group.<br>• Educational institutions; business, technical or vocational school.<br>• Educational institutions; college or university.<br>• Governmental facilities.<br>• Hospitals.<br>• Marina or boat landings.<br>• Museums.<br>• Places of worship.<br>• Public parks or playground.<br>• Recreation facilities; non-profit.<br>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building. | • Automobile maintenance shops.<br>• Commercial entertainment; excluding sexually-oriented establishments.<br>• Drive through facilities pursuant to §23-49.<br>• Greenhouses or greenhouse nurseries.<br>• Hotel or motels.<br>• Manufacturing, custom pursuant to §23-66(h)(16).<br>• Multi-tenant building.<br>• Offices.<br>• Parking lots.<br>• Personal services.<br>• Printing.<br>• Professional services.<br>• Restaurants (without alcohol).<br>• Restaurants, fast food.<br>• Retail businesses.<br>• Shopping centers.<br>• Towing businesses pursuant to §23-66(h)(15).<br>• Urban farms pursuant to 23-66(h)(17).<br>• Veterinarian clinics. |

(c) ***Accessory uses.*** Accessory uses in the C-2 district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-2 district.

(2) Residential dwellings at least ten (10) feet above the street grade of the building.

(3) Home occupation pursuant to §23-45.

(4) Outdoor storage and display pursuant to §23-46.

(5) Fences and walls pursuant to §23-44.

(d) ***Temporary uses and structures.*** Temporary uses and structures specified in §23-54 may be permitted in the C-2 District.

(e) ***Special uses.*** Special uses in the C-2 district may include:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Educational institutions; elementary school, junior high school or high school.<br>• Essential services.<br>• Golf courses. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure. | • Amusement arcades.<br>• Any principal building that exceeds thirty-five (35) feet in height.<br>• Automobile, RV, truck, cycle, boat sales and display lots, new pursuant to §23-66(h)(5).<br>• Automobile, RV, truck, cycle, boat sales and display lots when including used vehicles pursuant to §23-66(h)(5).<br>• Bar or taverns pursuant to §23-66(h)(6).<br>• Body repair and/or paint shops pursuant to §23-66(h)(4).<br>• Bus terminals.<br>• Car washes.<br>• Circus or carnivals. However, carnival rides or midways shall not be located within three hundred (300) feet of any residential district and shall be pursuant to §23-66(h)(7).<br>• Electronic towers pursuant to §23-66(h)(1)<br>• Freight distribution and/or moving centers.<br>• Gasoline sales pursuant to §23-66(h)(8).<br>• Helicopter landing pads pursuant to §23-66(h)(9).<br>• Indoor kennels.<br>• Landscape business.<br>• Manufacturing, light.<br>• Microbreweries.<br>• Mobile home sales lots.<br>• Outdoor commercial entertainment pursuant to §23-66(h)(11).<br>• Parking garages.<br>• Personal storage facility (self storage/mini-warehouse), including outdoor storage areas for recreational vehicles pursuant to §23-66(h)(18).<br>• Recycling collection points pursuant to §23-66(h)(14). |

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| | | • Recycling and waste recovery centers pursuant to §23-66(h)(13).<br>• Research laboratories or testing facilities.<br>• Restaurants with alcohol pursuant to §23-66(h)(6).<br>• Sexually-oriented establishments pursuant to Article XII.<br>• Shelter facility.<br>• Towers or antennas for wireless telecommunication services, pursuant to Article XIII.<br>• Wholesale facilities. |

(f) ***Site plan.*** Prior to obtaining a building permit on any land in the C-2 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) ***Parking, loading, and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) ***Development standards.*** The space limits applicable in the C-2 district are as follows:

(1) ***Minimum lot area.*** Fourteen thousand (14,000) square feet.

(2) ***Maximum lot coverage.*** Seventy-five percent (75%).

(3) ***Minimum lot width.*** Sixty (60) feet.

(4) ***Minimum front yard.*** Ten (10) feet.

(5) ***Minimum rear yard.*** Twenty (20) feet.

(6) ***Minimum side yard.***

a. None.

b. Ten (10) feet if abutting a residentially zoned district.

(7) ***Maximum building height.*** Thirty-five (35) feet (See §23-113 (e)).
(Ord 121-05, §1, 10-25-05; Ord 100-08, §1, 5-27-08; Ord 139-08, §1, 10-7-08; Ord 156-08, §1, 10-7-08; Ord 206-11, §1, 9-27-11; Ord 207-11, §1, 9-27-11; Ord 58-12, §1, 6-6-12; Ord 72-13, §1, 8-13-13)

**Sec. 23-114. CBD central business district.**

(a) ***Purpose.*** This district is intended to provide a centrally located and readily accessible area that offers a wide variety of retail, service, financial, entertainment and governmental uses. A broad range of uses is permitted to reflect downtown's role as a commercial, cultural and government center. Development is intended to be intense with maximum lot coverage, increased building scale and height density and buildings placed close together. Development is intended to be pedestrian-oriented with a strong emphasis on a safe and attractive streetscape.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the CBD:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • Assisted living or retirement homes.<br>• Nursing or convalescent homes. | • Clubs.<br>• Day care, group.<br>• Educational institutions; college or university. | • Automobile maintenance shops.<br>• Commercial entertainment; excluding sexually-oriented establishments. |

| | | |
|---|---|---|
| | • Governmental facilities.<br>• Museums.<br>• Places of worship.<br>• Public park or playgrounds.<br>• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building. | • Drive through facilities pursuant to §23-49.<br>• Hotel or motels.<br>• Multi-tenant building.<br>• Offices.<br>• Personal services.<br>• Printing.<br>• Professional services.<br>• Restaurants (without alcohol).<br>• Restaurant, fast foods.<br>• Retail businesses.<br>• Shopping centers.<br>• Urban farms pursuant to §23-66(h)(17)<br>• Veterinarian clinics. |

(c) ***Accessory uses.*** Accessory uses in the CBD district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the CBD district.

(2) Residential dwellings at least ten (10) feet above the street grade of the building.

(3) Home occupations pursuant to §23-45.

(4) Fences and walls pursuant to §23-44.

(d) ***Temporary uses and structures.*** Temporary uses and structures specified in §23-54 may be permitted in the CBD District.

(e) ***Special uses.*** Special uses in the CBD district may include:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Educational institution; elementary school, junior high school or high school.<br>• Essential services.<br>• Hospital.<br>• Marina and/or boat landing. | • Amusement arcade.<br>• Automobile, RV, truck, cycle, boat sales and display lot, new pursuant to §23-66(h)(5).<br>• Automobile, RV, truck, cycle, boat sales and display lot when including used vehicles pursuant to §23-66(h)(5).<br>• Bar or Tavern pursuant to §23-66(h)(6).<br>• Body repair and/or paint shop pursuant to §23-66(h)(4).<br>• Bus terminal.<br>• Electronic towers pursuant to §23-66(h)(1)<br>• Gasoline sales pursuant to §23-66(h)(8).<br>• Indoor kennel.<br>• Manufacturing, custom pursuant to §23-66(h)(16).<br>• Microbrewery.<br>• Outdoor commercial entertainment pursuant to §23-66(h)(11).<br>• Parking garage.<br>• Parking lot; however, surface lots are prohibited on lots fronting on College Avenue.<br>• Recycling collection point pursuant to §23-66(h)(14).<br>• Research laboratories or testing |

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| | | facilities.<br>• Restaurant with alcohol pursuant to §23-66(h)(6).<br>• Shelter facility.<br>• Towers or antennas for wireless telecommunication services pursuant to Article XIII.<br>• Wholesale facility. |

(f) ***Site plan.*** Prior to obtaining a building permit on any land in the CBD, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) ***Parking and loading requirements.*** Provision for off-street parking and loading spaces are not required for uses in the CBD.

(h) ***Landscape standards.*** Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(i) ***Development standards.*** The space limits applicable in the CBD are as follows:

(1) ***Minimum lot area.*** Two thousand four hundred (2,400) square feet.

(2) ***Maximum lot coverage.*** One hundred percent (100%).

(3) ***Minimum lot width.*** Twenty (20) feet.

(4) ***Minimum front yard.*** None.

(5) ***Minimum rear yard.***

a. None.

b. Ten (10) feet when abutting a residentially-zoned district.

(6) ***Minimum side yard.***

a. None.

b. Ten (10) feet when abutting a residentially-zoned district.

(7) ***Maximum building height.*** Two hundred (200) feet.

(Ord 121-05, §1, 10-25-05; Ord 101-08, §1, 5-27-08; Ord 140-08, §1, 10-7-08; Ord 157-08, §1, 10-7-08; Ord 59-12, §1, 6-6-12)

**Sec. 23-115. P parking district.**

(a) ***Purpose.*** The parking district is intended to provide for the off-street parking of motor vehicles in close proximity to uses which create a need for substantial amounts of vehicle parking, on properly screened and landscaped lots.

(b) ***Permitted uses.*** Principal uses permitted as of right in the parking district include:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • None. | • Parking garage.<br>• Parking lot. |

(c) ***Accessory uses.*** Accessory uses, buildings and structures permitted in the parking district include:

(1) Earthen berm.

(2) Fences and walls pursuant to §23-44.

(3) Private drives.

(4) Refuse containers, which shall be screened from view from adjacent properties and the public street pursuant to §23-43 and §23-47.

(d) ***Temporary uses and structures.*** Temporary uses and structures specified in §23-54 may be permitted in the P District.

(e) ***Special uses.*** Special uses permitted in the parking district include:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Essential services. | • None. |

(f) ***Lot area and width.*** Individual lots in the P district shall contain sufficient area for parking spaces, aisles and required screening. There is no minimum lot area and width.

(g) ***Site plan.*** Prior to obtaining a building permit for a parking lot in the P district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(h) ***Parking and landscape standards.*** Off-street parking requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(i) ***Development standards.***

(1) ***Maximum lot coverage.*** Ninety percent (90%).
(Ord 121-05, §1, 10-25-05; Ord 102-08, §1, 5-27-08; Ord 158-08, §1, 10-7-08)

**Secs. 23-116 – 23-130. Reserved.**

## ARTICLE VII. INDUSTRIAL DISTRICTS

### Sec. 23-131. M-1 industrial park district.

(a) ***Purpose.*** The M-1 district is intended for clean, low environmental impact industrial uses that are compatible with neighboring residential, office and commercial districts through limiting outdoor storage and providing adequate landscaping and screening for buildings, structures and off-street parking areas.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the M-1 district, subject to any contracts, agreements, covenants, restrictions and leases the City maintains on City-owned industrial properties.

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Governmental facilities.<br>• Registered historic places open to the public and having retail space occupying not more than ten percent (10%) of the gross floor area of the building. | • Agriculture.<br>• Commercial entertainment.<br>• Community garden.<br>• Freight distribution or moving centers.<br>• Manufacturing, light.<br>• Offices.<br>• Multi-tenant buildings.<br>• Printing.<br>• Research laboratory or testing facilities.<br>• Urban farms pursuant to §23-66(h)(17).<br>• Warehouses.<br>• Wholesale facilities. |

(c) ***Accessory uses.*** Accessory uses in the M-1 district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the M-1 district.

(2) Day care, group; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.

(3) Drive through facility pursuant to §23-49.

(4) Personal service occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.

(5) Outdoor storage pursuant to §23-46.

(6) Showrooms and incidental retail sales provided that:

a. Such showrooms and on-premises sales are limited in floor area to no more than twenty-five percent (25%) of the total gross floor area occupied by the permitted or special use and,

b. All goods being displayed or offered for sale are the same as those being manufactured and/or stored/distributed on the premises; and

c. The industrial character of the property is maintained.

(7) Fences and walls pursuant to §23-44.

(d) ***Temporary uses and structures.*** Temporary uses and structures specified in §23-54 may be permitted in the M-1 District.

(e) ***Special uses.*** Special uses in the M-1 district may include:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Essential services. | • Electronic towers pursuant to §23-66(h)(1)<br>• Helicopter landing pads pursuant to §23-66(h)(9).<br>• Manufacturing, heavy.<br>• Outdoor commercial entertainment pursuant to §23-66(h)(11).<br>• Parking garages.<br>• Recycling centers.<br>• Recycling collection points pursuant to §23-66(h)(14).<br>• Recycling and waste recovery centers pursuant to §23-66(h)(13).<br>• Sexually-oriented establishments pursuant to Article XII.<br>• Towers or antennas for wireless telecommunication services pursuant to Article XIII. |

(f) ***Site plan.*** Prior to obtaining a building permit on any land in the M-1 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) ***Parking, loading and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) ***Development standards.*** The space limits applicable in the M-1 district are as follows:

(1) ***Minimum lot area.*** One (1) acre.

(2) ***Maximum lot coverage.*** Ninety percent (90%).

(3) ***Minimum lot width.*** One hundred fifty (150) feet.

(4) ***Minimum front yard.*** Forty (40) feet.

(5) ***Minimum rear yard:***

a. Twenty-five (25) feet.

b. Fifty (50) feet if abutting a residentially-zoned district.

(6) ***Minimum side yard:***

a. Twenty-five (25) feet.

b. Fifty (50) feet if abutting a residentially-zoned district.

(7) ***Maximum building height.*** Sixty (60) feet.

(Ord 121-05, §1, 10-25-05; Ord 103-08, §1, 5-27-08; Ord 159-08, §1, 10-7-08; Ord 31-11, §1, 1-25-11; Ord 158-11, §1, 7-26-11; Ord 209-11, §1, 9-27-11; Ord 60-12, §1, 6-6-12; Ord 61-12, §1, 6-6-12)

**Sec. 23-132. M-2 general industrial district**

(a) ***Purpose.*** The M-2 district is intended to preserve and secure areas already established with industrial type or related uses or for new uses that meet the purposes of this district. The M-2 district is also intended to apply standards for existing uses that will minimize their effect on any adjacent residential or commercial land uses.

(b) ***Principal permitted uses.*** The following principal uses are permitted as of right in the M-2 district:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Governmental facilities.<br>• Registered historic places open to the public and having retail space occupying not more than ten percent (10%) of the gross floor area of the building. | • Automobile maintenance shops.<br>• Body repair and/or paint shops pursuant to §23-66(h)(4).<br>• Bus terminals.<br>• Commercial entertainment.<br>• Commercial truck body repair or paint shops.<br>• Commercial truck maintenance shops.<br>• Community garden.<br>• Freight distribution or moving centers.<br>• Landscape businesses.<br>• Manufacturing, light.<br>• Multi-tenant buildings.<br>• Offices.<br>• Personal storage facility (self storage/mini-warehouse), including outdoor storage areas for recreational vehicles pursuant to §23-66(h)(18).<br>• Printing.<br>• Research laboratories or testing facilities.<br>• Towing businesses pursuant to §23-66(h)(15).<br>• Truck or heavy equipment sales or rental.<br>• Urban farms pursuant to §23-66(h)(17).<br>• Warehouses.<br>• Wholesale facilities. |

(c) ***Accessory uses.*** Accessory uses in the M-2 district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the M-2 district.

(2) Day care, group; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.

(3) Drive through facility pursuant to §23-49.

(4) Outdoor display pursuant to §23-46.

(5) Outdoor storage pursuant to §23-46.

(6) Personal service; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.

(7) Showrooms and incidental retail sales provided that:

a. Such showrooms and on-premises sales are limited in floor area to no more than twenty-five percent (25%) of the total gross floor area occupied by the permitted or special use and,

b. All goods being displayed or offered for sale are the same as those being manufactured and/or stored/distributed on the premises; and

c. The industrial character of the property is maintained.

(8) Fences and walls pursuant to §23-44.

(d) ***Temporary uses and structures.*** Temporary uses and structures specified in §23-54 may be permitted in the M-2 District.

(e) ***Special uses.*** Special uses in the M-2 district may include:

| Residential Uses | Public and Semi Public Uses | Non-Residential Uses |
|---|---|---|
| • None. | • Essential services.<br>• Marina or boat landing. | • Asphalt plant.<br>• Automobile, RV, truck, cycle, boat sales and display lot, new pursuant to §23-66(h)(5).<br>• Automobile, RV, truck, cycle, boat sales and display lot when including used vehicles only pursuant to §23-66(h)(5).<br>• Bulk flammable or combustible liquid storage or distribution facility.<br>• Concrete mixing.<br>• Electronic towers pursuant to §23-66(h)(1).<br>• Gasoline sales, pursuant to §23-66(h)(8).<br>• Manufacturing, heavy.<br>• Indoor or outdoor kennel pursuant to §23-66(h)(12).<br>• Mobile home sales and display lot.<br>• Parking garage.<br>• Parking lot.<br>• Recycling collection point pursuant to §23-66(h)(14).<br>• Recycling and waste recovery center pursuant to §23-66(h)(13).<br>• Salvage yard or junk facility.<br>• Sexually-oriented establishments pursuant to Article XII.<br>• Towed vehicle storage.<br>• Towers or antennas for wireless telecommunication services pursuant to Article XIII. |

(f) ***Site plan.*** Prior to obtaining a building permit on any land in the M-2 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) ***Parking, loading, and landscape standards.*** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) ***Development standards.*** The space limits applicable in the M-2 district are as follows:

(1) ***Minimum lot area.*** Eight thousand (8,000) square feet.

(2) ***Maximum lot coverage.*** Ninety percent (90%).

(3) ***Minimum lot width.*** Fifty (50) feet.

(4) ***Minimum front yard.*** None.

(5) ***Minimum rear yard.*** None; Fifty (50) feet if abutting a residentially zoned district.

(6) ***Minimum side yard.*** None; Fifty (50) feet if abutting a residentially zoned district.

(7) ***Maximum building height.*** Eighty (80) feet.

(Ord 121-05, §1, 10-25-05; Ord 160-08, §1, 10-7-08; Ord 159-11, §1, 7-26-11; Ord 210-11, §1, 9-27-11; Ord 62-12, §1, 6-6-12; Ord 63-12, §1, 6-6-12; Ord 73-13, §1, 8-13-13)

**Secs. 23-133 – 23-149. Reserved.**

## ARTICLE VIII. OVERLAY DISTRICTS

### Sec. 23-150. Overlay districts purpose.

The Appleton overlay districts are intended to provide supplemental regulations or standards pertaining to specific areas of the City, wherever these are located, in addition to, but not necessarily more restrictive than the "base" or underlying zoning district regulations applicable within a designated area. Whenever there is a conflict between the regulations of a base zoning district and those of an overlay district, the overlay district regulations shall supercede the base district regulations.

### Sec. 23-151. PD planned development overlay district.

(a) ***Purpose.*** The purpose of this district is to encourage innovative design and a mix of uses in areas of Appleton where such development could positively contribute to the physical appearance and function of land and development.

(b) ***Designation of planned development overlay district.*** The PD overlay district shall be designated by the Common Council pursuant to the provisions of §23-65, Zoning amendments, and shall be shown as an overlay to the underlying districts by the designation of PD on the City of Appleton Official Zoning Map.

In determining the proper location for such an overlay within the City, the City shall consider that these provisions are intended to accommodate developments that involve one (1) or more uses that may be located in one (1) or more zoning districts and provide the following:

(1) That the application of this overlay district would provide a choice in the type of environment available to the public by allowing development that would not be possible under the strict application of other sections of this chapter.

(2) That the application of this PD overlay district would encourage development and/or permanent reservation of open space, recreational areas and facilities.

(3) That the application of this PD overlay district would accommodate a land use plan that permits preservation of green space, natural vegetation, topographic and geologic features and historic resources.

(4) That the application of this PD overlay district would allow a creative approach to the use of land and related physical facilities which results in better urban design, higher quality construction and the provision of aesthetic amenities.

(5) That the application of this PD overlay district would allow the efficient use of land, so as to promote economies in the provision of utilities, streets, schools, public grounds and buildings and other facilities.

(6) That the application of this PD overlay district would allow innovations in development so that the needs and demands of the population may be met by a greater variety in type, design and layout of buildings, and by conservation and more efficient use of open space ancillary to said buildings, all in a manner so as to be consistent with the character of the zoning district over which the PD overlay district is to be located.

(7) That the application of this PD overlay district would allow a land use which promotes the public health, safety, comfort, morals and welfare.

(c) ***Minimum size of district.*** No district shall be established unless it contains the minimum area specified in this section and has at least two hundred (200) feet of frontage or City approved private road access.

(1) The minimum gross area required for a PD overlay district is as follows:

a. Two (2) acres where the overlay is placed upon base, single-family residential districts.

b. Two (2) acres where the overlay is placed upon base, multi-family residential districts.

c. One (1) acre where the overlay is placed upon base, nonresidential districts.

(2) Applications for a PD overlay district on sites containing less than the required acreage listed above, but not less than the underlying zoning district requirements, may be approved upon proof by the owner that the development is in the public interest and that one (1) or more of the following conditions exist:

a. The property contains steep topography or other unusual physical features which necessitates substantial deviation from the regulations otherwise applicable, in order to ensure a safe, efficient and attractive development.

b. The property is adjacent to an existing PD overlay district and will contribute to the maintenance of amenities and values of the neighboring district.

c. The proposal involves the redevelopment of an existing area or makes use of an infill site that could not be reasonably developed under conventional zoning requirements.

d. The property lends itself to creative design that will enhance quality of life in the proposed development.

(d) ***Designation of permanent common open space***. No Development Plan for a PD overlay district shall be approved, unless the plan provides for permanent, landscaped, open space equivalent to the following by type of PD overlay district:

| | | *Percent of gross acreage* |
|---|---|---|
| a. | Planned residential development | 35% |
| b. | Planned commercial development | 10% |
| c. | Planned office development | 25% |
| d. | Planned mixed development | 30% |

(1) Open space may either be passive or active in nature and shall fully complement the proposed development. Such open space may take the form of required yards, parks, playgrounds, landscaped green space, nature walks and natural areas.

(2) Land donated for any public purpose, which is accepted by the City, may be credited towards the open space requirement at the discretion of the Common Council.

(3) Where a planned development is to be developed in phases, a portion of the required open space shall be provided in each phase. Maintenance of the open space shall be provided for in the planned development's restrictive covenants and/or the Implementation Plan Document (IPD) recorded as part of the project.

(4) Open space shall be either adjacent to, or readily accessible by, all properties within the PD overlay district. Furthermore, open space shall be situated in such a way that it may be linked up with other open spaces adjacent to the proposed PD overlay district.

(e) ***Area, height and yard requirements.*** Lot area, width, building height, yard, density and similar requirements shall be provided in accordance with the underlying zoning district unless based upon performance standards specific to the proposed uses or structures as they relate to the total concept of the PD overlay district as identified in §23-151(m), Procedure for approval of a Development Plan within the district, of this section.

(f) ***Density, height, yard and other regulation exceptions***. In the case of any PD overly district, the Plan Commission may recommend and the Common Council may authorize, exceptions to the applicable bulk, height, yard and other regulations of this chapter within the boundaries of such PD overly district, provided that the Plan Commission shall find that such exception shall be for the purpose of promoting an integrated Development Plan as beneficial to the tenants or occupants of such development, as well as the neighboring properties, than would be obtained under the bulk regulations of this chapter for buildings developed on separate zoning lots.

(g) ***Principal permitted uses.***

(1) Uses listed as permitted in the underlying zoning district(s).

(2) Uses as approved or as recommended by the Plan Commission and Common Council as identified in §23-151(h), Use regulation exceptions.

(3) Uses listed as special uses in the underlying zoning district(s) may be listed as permitted uses in the PD overlay district and shall be reviewed and approved, approved with conditions or denied as a part of the PD overlay district process.

(h) ***Use regulation exceptions***. The Plan Commission may recommend and the Common Council may authorize that there will be allowed in part of the area of a proposed PD overlay district, specified uses not permitted by the use regulations of the underlying zoning districts in which the development is located, provided that the Plan Commission shall find:

(1) That the uses permitted by such exception are necessary or desirable and are appropriate with respect to the primary purpose and character of the PD overlay district.

(2) That the uses permitted by such exception are not of such nature or so located as to exercise a detrimental influence on the neighborhoods surrounding the PD overlay district, or upon the internal character of any part of, or all of the PD overlay district, itself.

(3) That the use exceptions so allowed are listed in the Implementation Plan Document (IPD), of which a recorded copy of the Implementation Plan Document (IPD), shall be filed in the office of the Community and Economic Development Director.

(4) That any excepted use which is listed as a special use in any district, unless such use is permitted as of right in the underlying zoning district, shall require a two-thirds (2/3) vote of the Common Council.

(i) ***Other uses.***

(1) ***Accessory uses.*** Uses listed as accessory uses in the underlying zoning district(s) are permitted as of right in the PD overlay district.

(2) ***Temporary uses and structures.*** Uses listed as temporary uses and structures in the underlying district(s) may be permitted in the PD overlay district.

(j) ***Signs.*** Sign regulations applicable in the PD overlay district are set forth in Article XIV, Signs.

(k) ***Outdoor lighting, parking and landscape standards.*** All standards of the following apply: outdoor lighting requirements as set forth in §23-53, Outdoor lighting. Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(l) ***Period of validity and expiration of plans.*** A PD overlay district designation remains on PD parcels even if there is no approved Development Plan and/or Implementation Plan Document (IPD), or if the Development Plan and Implementation Plan Document (IPD) has expired or the Development Plan and Implementation Plan Document (IPD), has been made invalid. Any future development requires a submittal of a Development Plan and Implementation Plan Document (IPD) and its approval or a request to rezone the property.

(1) Once a Development Plan and/or Implementation Plan Document (IPD) has expired for any portion of the planned development overlay district, no development shall occur within the expired portions of the planned district until:

a. A new Development Plan and Implementation Plan Document (IPD) is resubmitted and is recommended for approval by the Plan Commission and approved by Common Council; and

(2) A one (1) year extension of an approved Development Plan and Implementation Plan Document (IPD) may be granted by Common Council for good cause shown by the applicant.

(m) ***Procedure for approval of a Development Plan within the district.*** No development shall be permitted within this district unless it is submitted, reviewed and approved subject to the following procedures:

All required improvements, construction standards, design standards and all other engineering standards contained within the Municipal Code shall be complied with, except where specifically varied through the provisions of this section of the chapter.

Applications shall be made on forms provided by the City and shall be accompanied by the required plans and documents. The application and all requirements shall be reviewed for completeness by the Community and Economic Development Director. The steps in the procedure are as follows:

(1) ***Step 1.*** *Pre-application conference.*

a. The purpose of the pre-application conference is to provide two-way communication between the applicant, the Community and Economic Development Director and City staff regarding the legal, planning, engineering and storm water management aspects of the potential development. Accordingly, the applicant shall submit conceptual plans and other pertinent information to the Community and Economic Development Director for review and discussion by other city departments prior to submittal of a PD overlay district application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD). The conceptual plan shall include the entire area of the intended PD, even if the PD overlay district is to be developed in phases.

b. A pre-application conference review shall consider: success in achieving the purposes of the PD overlay district ordinances; adequacy of public and private services and facilities; ability to conform with all applicable codes and ordinances; utilization of commonly accepted principles of good site planning; and consistency with the comprehensive plan.

c. Submittal requirements for the PD overlay district application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be reviewed as part of the pre-application conference. A submittal item may be waived as part of this review if determined as not needed, already known or needed at a future review process.

d. The aforementioned requirements may be waived at the discretion of the Community and Economic Development Director.

(2) ***Step 2.*** *Application, Development Plan and Implementation Plan Document (IPD).* The Development Plan, complete application and fee, and Implementation Plan Document (IPD) for the PD overlay district shall be submitted by the applicant to the Community and Economic Development Director who, after determining the application to be complete, will file the Development Plan, complete application and fee and Implementation Plan Document (IPD) for the PD overlay district. The application and fee shall be filed with the City Clerk and the application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be forwarded to the Plan Commission for their consideration, informal hearing, and recommendation.

The required procedure for consideration and approval of the PD overlay district shall be:

a. **Submission of materials.** The applicant shall prepare and submit the following plans and documents:

1. All information listed in §23-151(n), Specific contents of Development Plans.

2. Written application and application fee for approval of a PD overlay district to be made on forms and in the manner prescribed by the City.

3. A completed copy of the Implementation Plan Document (IPD) as prescribed by the City shall be submitted to the Community and Economic Development Director on a diskette or by electronic mail. The Implementation Plan Document (IPD) functions to inform all whom deal with the PD overlay district of the restrictions placed upon the land and acts as a customized zoning district control device.

4. A statement of conformity with City's other relevant ordinances along with a list of any requested variations from these ordinances.

b. **Development Plan and Implementation Plan Document (IPD) review.** The Community and Economic Development Director shall coordinate a review of the Development Plan and Implementation Plan Document (IPD) to include review by all relevant departments and submit written findings and recommendations to the Plan Commission for an informal hearing.

c. **Informal hearing.** The Plan Commission shall hold an informal hearing on each application for approval of a PD overlay district including the Development Plan and Implementation Plan Document (IPD) in accordance with §23-65(d), Map amendments, of this chapter.

d. **Plan Commission findings.** Following the informal hearing, the Plan Commission shall make its findings and recommendations and send a written report to the Common Council that shall include findings of fact upon which its recommendations are based. Such findings and recommendations shall include a recommendation for approval, disapproval or approval with modifications. This report to the Common Council must be submitted within thirty (30) days after the last session of the informal hearing of the Plan Commission or the Plan Commission must indicate to the Common Council, in writing, why such report cannot be rendered within that time period.

e. **Common Council action.** The Common Council shall hold a public hearing and act upon the recommendation within forty-five (45) days after receipt of the Plan Commission's report. The Common Council may approve, approve with modifications, refer back to the Plan Commission, disapprove the plan or provide written explanation to the petitioner on why an extension is required for Common Council action. The time period for action shall be exclusive of any time extensions or continuances requested by the petitioner.

f. **Period of validity.**

1. The Development Plan and Implementation Plan Document (IPD), as approved by the Common Council, shall remain valid for a period of one (1) year during which time building permits for a substantial portion of development occurring within the approved first phase of the Development Plan or, if the Development Plan does not consist of development phases, the complete Development Plan must be applied for and received by the applicant. The one (1) year period shall begin on the date the Common Council approves the PD overlay district, Development Plan and Implementation Plan Document (IPD).

   a. For the purposes of this section, "substantial portion of development" shall mean that at least thirty percent (30%) of the building permits required for the overall project or phase, if in phases, have been approved for and approved.

2. The Common Council may extend this period upon recommendation of the Plan Commission. If the applicant does not apply for and receive a building permit within one (1) year from the date of Common Council approved of the PD overlay district, Development Plan and Implementation Plan Document (IPD), the Development Plan and Implementation Plan Document (IPD) will constitute abandonment of the PD overlay district and related approvals, and any assumed development rights over that allowed through the underlying zoning district and shall be subject to the regulations in §23-151(l), Proof of validity and expiration of plans, of this chapter.

g. **Recording of Development Plan and Implementation Plan Document (IPD).**

1. The applicant shall file the Development Plan and Implementation Plan Document (IPD), signed by all parties in the Register of Deeds Office of the jurisdictional county within thirty (30) days from the date of Common Council approval of the PD overlay district and shall provide the Community and Economic Development Director a recorded copy of the Development Plan and Implementation Plan Document (IPD). This constitutes approval of the Development Plan and Implementation Plan Document (IPD), conditions applied, modifications, and any density premiums that may be granted

and exceptions, if any, to the plan shown in the application that were ordered by the Common Council.

2. No permit allowing construction of a building or other development, shall take place until the required recording of the Development Plan and Implementation Plan Document (IPD) and the posting by the applicant of the required improvement deposits and relevant City fees unless permitted by the Community and Economic Development Director. The applicant shall pay all recording costs.

(n) ***Specific content of Development Plans.*** PD overlay district Development Plans and supporting data shall include all documentation listed in this section of the zoning ordinance. In developing plans and specifications for all required improvements, the applicant must also conform to the standards set forth in applicable sections of the Municipal Code.

(1) ***Development plan set.*** The applicant shall provide a complete set of development plans, a digital file of the Development Plan, a PD overlay district rezoning or PD overlay district amendment application and the appropriate fee as established by the Common Council.

a. **A topographic survey and location map.**

b. **Detailed plan.** A drawing of the Development Plan shall be prepared at a scale not less than one (1) inch equals one hundred (100) feet, or as considered appropriate by the Community and Economic Development Director, and shall show such designations as proposed streets, lots, all buildings, showing their setback dimensions to lot lines and their use, common open space, recreation facilities, parking areas, showing their setback dimensions to lot lines, service areas and other facilities to indicate the character of the proposed development. Provide note(s) identifying the lot coverage percentage of impervious surface coverage and the percentage of permanent common open space within the PD.

The submission may be composed of one (1) or more sheets and drawings and shall include:

1. Boundary lines. Bearings, distances and acreage.

2. Easements. Location, width and purpose.

3. Existing land use. On PD property and up to one hundred fifty (150) feet on adjacent lots.

4. Other conditions on adjoining land, such as actual direction and gradient of ground slope, including any embankments or retaining walls; character and location of major buildings, railroads, power lines, towers and other nearby non-residential land uses or adverse influences; for owners of adjoining platted land refer to subdivision plat by name, recording date and number and show approximate percent built up, typical lot size and dwelling type.

5. Zoning on and adjacent to the tract.

6. Streets on and adjacent to the tract, such as street name, right-of-way width, existing or proposed centerline elevations pavement type, walks, curbs, gutters, culverts, etc.

7. General location, purpose and height of each residential and non-residential building.

8. Map data. Name of development, north arrow, scale and date of preparation.

9. An accurate legal description of the entire area within the PD.

The following subsections 10 through 22 may be waived by the Community and Economic Development Director:

10. Proposed public improvements. Such as highways and other major improvements planned by public authorities for future construction on or near the tract.

11. Utilities on and adjacent to the tract. Such as location, size and invert elevation of sanitary and storm sewers; location and size of water mains; location of gas lines, fire hydrants, electric and telephone

lines and street lights; direction and distance to, and size of nearest water mains and sewers adjacent to the tract showing invert elevation of sewers.

12. Ground elevation on the tract and on the first fifty (50) feet on all adjacent tracts. Showing one (1) foot contours for land which slopes less than one-half percent (½%) along with all breaks in grades, at all drainage channels or swales and at selected points not more than one hundred (100) feet apart in all directions; for land that slopes more than one-half percent (½%) showing two (2) foot contours. Any land within the one hundred (100) year floodplain within the project area shall be identified on these plans.

13. Subsurface conditions on the tract. Tests made to ascertain subsurface soil, rock and groundwater conditions, depth to groundwater, unless test pits are dry at a depth of five (5) feet.

14. Other conditions on the tract. Water courses, marshes, rock outcrops, wooded areas, isolated trees one (1) foot or more in diameter, existing structures and other significant features.

15. Title and certificates. Present tract designation according to official records in Office of the Register of Deeds; title under which the proposed development is to be recorded, with names and addresses of owners and notation stating acreage. Owners shall include beneficial owners of any land trust.

16. Names. The names and addresses to who notices of hearings shall be sent, including the subdivider or developer, the designer of the subdivision or development and the owners of the land immediately adjoining the land to be platted.

17. Open space. All parcels of land intended to be dedicated for public use or reserved for the use of all property owners, with the purpose indicated.

18. Miscellaneous. Such additional documents as may be required by the Community and Economic Development Director. The Community and Economic Development Director shall inform the applicant of such requirements after the pre-application conference.

19. A drainage plan signed by a Wisconsin Registered Professional Engineer that conforms to City standards for site drainage.

20. Tabulation of each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre.

21. An accurate legal description of each separate unsubdivided use area, including open area.

22. A storm water management plan signed by a Wisconsin Registered Professional Engineer that conforms to City Storm Water Management Ordinance.

c. **Exceptions.** Identification and explanation of those aspects of the proposed PD overlay district that vary from the zoning ordinance requirements applicable to the underlying zoning district and from other applicable regulations of the City.

d. **Character.** Explanation of the character of the PD overlay district and the reasons why it has been planned to take advantage of the flexibility of these regulations. This item shall include a specific explanation of how the proposed PD overlay district meets the objectives of this section.

e. **Ownership.** Statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.

f. **Landscape and lighting plan.** A general landscape concept plan for the site as well as a lighting concept plan for the site and the effects of such lighting on adjacent properties.

The following subsections g. through p. may be required by the Community and Economic Development Director:

g. **Schedule.** Development schedule indicating:

1. Stages in which the project will be built, with emphasis on area, density, use and public facilities, such as open space to be developed with each stage. Each stage shall be described and mapped as a unit of the project. Overall design of each unit shall be shown on the plan and through supporting graphic material.

2. Dates for beginning and completion of each stage.

h. **Covenants.** Proposed agreements, provisions or covenants which will govern the use, maintenance and continue protection of the PD and any of its common open space. Proposed condominium declaration and bylaws of condominium form of ownership or homeowner's association if it is to be used in the PD.

i. **Nonresidential intensity.** Information on the type and amount of nonresidential uses including building locations, sizes, building height, the amount and location of common open space, the hours of operation, number of employees and specific uses.

j. **Architectural plans.** Preliminary architectural plans for all primary buildings shall be submitted in sufficient detail to permit an understanding of the style of the development, the design elements of the building and the number, size and type of dwelling units.

k. **Facilities plan.** Development plans and feasibility reports for:

1. Streets, including classification, width of right-of-way, width of pavement and construction details.

2. Sidewalks.

3. Sanitary sewers.

4. Storm drainage.

5. Water supply system.

6. Street lighting.

7. Public utilities.

l. **Community-benefit analysis.** A study indicating the fiscal impact of the PD overlay district on major taxing bodies which shall include the municipal corporation, school district(s) and other taxing bodies. Information will include detailed estimates on: expected population of the development, the operating cost to be incurred by each taxing body, any additional major capital investments required, in part or in whole, because of the PD overlay district, revenue generated for each taxing body by the PD overlay district to offset service and fiscal demands created by the PD overlay district.

m. **Traffic analysis.** A study of the impact caused by the PD overlay district on the street and highway systems operating in the City.

n. **Market information.** Documentation indicating the extent of market demand for the uses proposed in the PD overlay district including analysis of demographics, sales potentials, competitive alignment, assessment of market share and market positioning of each component of the PD overlay district.

o. **Environmental analysis.** The major impacts of the PD overlay district on the environment shall be analyzed and shall disclose all major negative impacts. Generally, these impacts would include effects on discrete ecosystems, deteriorated air quality in the immediate vicinity and along arterial and collector roads leading to the PD overlay district to a distance established by the City Engineer, any deterioration in the groundwater or surface water quality, effect on sensitive land areas such as floodplains, wetlands, forests, aquifer recharge areas, historic buildings or structures.

p. **Open space standards.** All open space, at the election of the City, shall be:

1. Conveyed to the City; or

2. Conveyed to a not-for-profit corporation or entity established for the purpose of benefiting the owners and tenants of the PD overlay district or adjacent property owners or any one (1) or more of them. All lands so conveyed shall be subject to the right of the grantee(s) to enforce maintenance and improvement of the common open space; or

3. Guaranteed by a restrictive covenant described the open space and its maintenance and improvement, running with the land for the benefit of residents of the PD overlay district or adjacent property owners.

(o) ***Findings of fact.*** In reporting its findings and recommendations on a PD overlay district, Development Plan and Implementation Plan Document (IPD) to the Common Council, the Plan Commission will submit findings of fact upon which it has based its recommended action. These findings of fact will relate to the specific proposal and shall set forth with particularity in what respects the proposal would or would not be in the public interest, including findings of fact on the following:

(1) In what respects the proposed plan is or is not consistent with the stated purpose, requirements, and standards of the PD regulations.

(2) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property and the reasons why such departures are or are not deemed to be in the public interest.

(3) The extent of public benefit of the PD in terms of meeting planning objectives and enhancing the tax base and economic development. Any specific beneficial actions, plans, or programs agreed to in the PD proposal which are clearly beyond the minimum requirements of this chapter shall be specifically listed as evidence of justified exceptions.

(4) The physical design of the proposed plan and the manner in which said design makes adequate provision for public services, provides adequate control over vehicular traffic, provides for common open space and furthers the amenities of light, air, recreation and visual enjoyment.

(5) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.

(p) ***Changes in the PD.*** A PD shall be developed only according to the approved and recorded Development Plan and Implementation Plan Document (IPD) and all supporting data. The recorded Development Plan, Implementation Plan Document (IPD) and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assigns and shall limit and control the use of the premises (including the internal use of buildings and structures) and location of structures in the PD, as set forth therein.

(1) ***Major changes***. Changes which alter the concept or intent of the PD, including:

a. Increases in the density by more than ten percent (10%);

b. Increases in the height of building(s) by more than ten percent (10%);

c. Reductions of proposed open space by more than ten percent (10%);

d. Modification in proportion of housing types by more than ten percent (10%);

e. Changes in standards of infrastructure or alignment of streets, including major alterations in the placement of utilities, water, electricity, drainage or changes in the final governing agreements, provisions or covenants.

Major changes may be approved only by submission of a new Development Plan and Implementation Plan Document (IPD) and supporting data, and following the development plan approval steps, holding of a new public hearing and subsequent amendment and recordation of the Implementation Plan Document (IPD).

(2) ***Minor changes***. The Community and Economic Development Director may approve minor changes in the PD which do not change the concept or intent of the development, without going through the Development Plan approval steps. Minor changes are defined as any change not defined as a major change. Any minor changes approved shall be properly filed with the Community and Economic Development Director or it shall be automatically deemed to be a major change.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96, Ord 121-05, §1, 10-25-05; Ord 84-06, §1, 7-11-06; Ord 161-08, §1, 10-7-08)

**Sec. 23-152. TND traditional neighborhood development overlay district.**

(a) ***Purpose.*** The purpose of this district is to allow for optimal development and redevelopment of land in a manner that is consistent with the design principles of traditional neighborhoods. Promoting the proximity of residential, commercial and civic uses capitalizes on the benefits received through the coordination and interaction of these uses at a pedestrian scale. The district is intended to be mapped as an overlay upon existing, underlying zoning districts, the requirements of which will also apply.

It is not intended that the City will automatically grant the use of exceptions or maximum density increases for all traditional neighborhood developments overlay districts (TND overlay district), but it is expected the City shall grant only such increases or uses which are consistent with the benefits accruing to the City as a result of the traditional neighborhood development. Therefore, the City may require as a condition of approval any reasonable condition, limitation or design factor that will promote proper development in the TND overlay district.

The following advantages are contributing factors found in a traditional neighborhood development:

(1) Designs that balance the needs of residential uses and non-residential uses while creating compatibility among these uses;

(2) Designs that are compact, pedestrian-oriented and relate to the human scale;

(3) Designs that promote a variety of housing, types, styles and sizes;

(4) Designs that reflect the City's development and planning policies reflected in the residential neighborhoods or non-residential areas in which the district is to be located;

(5) Designs that enhance the appearance of neighborhoods by conserving areas of natural beauty and natural green spaces;

(6) Designs that counteract possible urban monotony and congestion on streets through promotion of all types of transportation (walking, biking, etc.); and

(7) Designs that promote compatible architecture between adjacent buildings.

(b) ***Definition.*** For the purpose of this ordinance:

***Traditional Neighborhood Development*** means a compact, mixed-use neighborhood where residential, commercial and civic buildings are within close proximity to each other.

(c) ***Designation of traditional neighborhood development overlay district.*** The TND overlay district shall be designated by the Common Council pursuant to the provisions of §23-65, Zoning amendments, and shall be shown as an overlay to the underlying districts by the designation of TND overlay district on the City of Appleton Official Zoning Map.

In determining the proper location for such an overlay within the City, the City shall consider these provisions are intended to accommodate developments that involve more than one use, that may be located in one (1) or more zoning district, and provide the following:

(1) The application of this overlay district would provide a choice in the type of environment available to the public by allowing development that would not be possible under the strict application of other sections of this chapter.

(2) The application of this overlay district would encourage development and/or permanent reservation of open space, recreational areas and facilities.

(3) The application of this overlay district would accommodate a land use plan which permits preservation of green space, natural vegetation, topographic and geologic features and historic resources.

(4) The application of this overlay district would allow a creative approach to the use of land and related physical facilities which results in better urban design, higher quality construction and the provision of aesthetic amenities.

(5) The application of this overlay district would allow the efficient use of land, so as to promote economies in the provision of utilities, streets, educational institutions, public grounds and buildings and other facilities.

(6) The application of this overlay district would allow innovations in development so the needs and demands of the population may be met by a greater variety in type, design and layout of buildings, and by conservation and more efficient use of open space ancillary to said buildings, all in a manner so as to be consistent with the character of the zoning district over which the TND overlay district is to be located.

(7) The application of this overlay district would allow a land use which promotes the public health, safety, comfort, morals and welfare.

(d) ***Size of district.*** No district shall be established unless it contains the minimum area specified in this section.

(1) The gross area required for a TND overlay district shall be no less than ten (10) acres. All acreage shall be contiguous.

(2) Applications for a TND overlay district, on sites containing less than the required acreage listed above, but not less than the underlying zoning district requirements, may be approved upon proof by the owner the development is in the public interest and one (1) or more of the following conditions exist:

a. The property contains steep topography or other unusual physical features which necessitate substantial deviation from the regulations otherwise applicable, in order to ensure a safe, efficient and attractive development.

b. The property is adjacent to an existing TND overlay district and will contribute to the maintenance of amenities and values of the neighboring property.

c. The proposal involves the redevelopment of an existing area or makes use of an infill site that could not be reasonably developed under conventional zoning requirements.

d. The property lends itself to creative design that will enhance quality of life in the proposed development.

(e) ***Designation of permanent common space***. No plans for a TND overlay district shall be approved, unless the plan provides for permanent, landscaped, open space.

(1) Open space standards shall be identified in the TND overlay district design standards §23-152(r)(1), Open space design standards.

(f) ***Area, height and yard requirements.*** Lot area, width, building height, yard and similar requirements shall be as established below. All requirements established shall be approved by the Common Council and made a part of the approved Development Plan and Implementation Plan Document (IPD).

***Area, height and yard requirement table***

| Regulation | Single- and Two-Family | Multi-family, Civic and Commercial |
|---|---|---|
| Minimum Lot Size | 4,000 s.f. | 2,000 s.f. per unit for multifamily<br><br>6,000 s.f, for commercial and civic uses |
| Maximum Lot Size | 6,000 s.f. | 1 acre |
| Minimum Lot Width | 40 feet | 40 feet |
| Front Yard Setback | 10 feet maximum<br><br>0 feet minimum | 10 feet maximum<br><br>0 feet minimum |
| Side Yard Setback | 5 feet street side<br><br>0 feet interior | 5 feet street side<br><br>0 feet interior |
| Rear Yard Setback | 5 feet | 10 feet |
| Maximum Height | 35 Feet Principal Use<br><br>15 Feet Accessory Use | 45 Feet Principal Use<br><br>15 Feet Accessory Use |
| Maximum Building Coverage | 70% | 70% |
| Maximum Impervious Surface Coverage | 80% | 90% |

(g) ***Density, height, yard and other regulation exceptions***. In the case of any TND overlay district, the Plan Commission may recommend and the Common Council may authorize, exceptions to the applicable bulk, height, yard and other regulations of this chapter within the boundaries of such TND overlay district, provided the Plan Commission shall find that such exception shall be for the purpose of promoting an integrated site plan as beneficial to the tenants or occupants of such development, as well as the neighboring properties, than would be obtained under the bulk regulations of this chapter for buildings developed on separate zoning lots.

(h) ***Principal permitted uses.*** The following principal permitted uses are permitted as of right in the TND overlay district.

(1) The following uses are listed as permitted in the underlying zoning district. In the case of a lot located in more than one (1) underlying zoning district, the use limitations of the underlying zoning district shall apply:

a. All R-1A, R-1B and R-1C single-family district residential permitted uses;

b. All R-2 two- (2-) family district residential permitted uses;

c. All R-3 multi-family residential district permitted uses;

d. All C-O commercial office district permitted;

e. All C-1 neighborhood commercial district permitted uses;

f. All C-2 general commercial district permitted uses, except the following:

1. Hospitals;

2. Towing business pursuant to §23-66(h)(16).

(2) ***Special uses***. Uses listed as special uses in the following underlying zoning district(s) may be listed as permitted uses in the TND overlay district and shall be reviewed and approved, approved with conditions or denied as part of the TND overlay district process:

a. All R-1A, R-1B, and R-1C single-family residential district special uses;

b. All R-2 two- (2-) family residential district special uses;

c. All R-3 multifamily residential district special uses;

d. All C-O commercial office district special uses, except the following:

1. Electronic towers pursuant to §23-66(h)(1);

2. Helicopter landing pads pursuant to §23-66(h)(9);

3. Towers or antennas for wireless telecommunication services, pursuant to Article XIII.

e. All C-1 neighborhood commercial district special uses, except the following:

1. Electronic towers pursuant to §23-66(h)(1);

2. Towers or antennas for wireless telecommunication services, pursuant to Article XIII.

f. All C-2 general commercial district special uses, except the following:

1. Sexually-oriented establishments pursuant to Article XII;

2. Automobile, RV, truck, cycle, boat sales and display lots, new pursuant to §23-66(h)(5);

3. Automobile, RV, truck, cycle, boat sales and display lots when including used vehicles pursuant to §23-66(h)(5);

4. Body repair and/or paint shops pursuant to §23-66(h)(4);

5. Electronic towers pursuant to §23-66(h)(1);

6. Helicopter landing pads pursuant to §23-66(h)(9);

7. Manufacturing, light;

8. Research laboratories or testing facilities;

9. Towers or antennas for wireless telecommunication services, pursuant to Article XIII.

(3) Uses as approved or as recommended by the Plan Commission and Common Council as identified in §23-152(j), Use regulation exceptions.

(i) ***Other uses.***

(1) ***Accessory uses.*** Uses listed as accessory uses in the underlying zoning district(s) are permitted as of right in the TND overlay district.

(2) ***Temporary uses and structures.*** Uses listed as temporary uses and structures in the underlying district(s) may be permitted in the TND overlay district.

(j) ***Use regulation exceptions.*** The Plan Commission may recommend and the Common Council may authorize that there be allowed in part of the area of a proposed TND overlay district, specified uses not permitted by the use regulations of the underlying zoning districts in which the development is located, provided that the Plan Commission shall find:

(1) That the uses permitted by such exception are necessary or desirable and are appropriate with respect to the primary purpose and character of the TND overlay district.

(2) That the uses permitted by such exception are not of such nature or so located as to exercise a detrimental influence on the neighborhoods surrounding the TND district, or upon the internal character of any part of, or all of the TND overlay district, itself.

(3) That the use exceptions so allowed are listed in the Implementation Plan Document (IPD), of which a recorded copy of the Implementation Plan Document (IPD), shall be filed in the office of the Community and Economic Development Director.

(4) That any excepted use which is listed as a special use in any district, unless such use is permitted as of right in the underlying zoning district, shall require a two-thirds (2/3) vote of the Common Council.

(k) ***Signs.*** Sign regulations applicable in the TND overlay district are set forth in Article XIV, Signs.

(l) ***Outdoor lighting, parking and landscape standards.*** All standards of the following apply: outdoor lighting requirements as set forth in §23-53, Outdoor lighting. Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards and in §23-152(r), TND overlay district design standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(m) ***Period of validity and expiration of plans.*** A TND overlay district designation remains on TND overlay district parcels even if there is no approved Development Plan and/or Implementation Plan Document (IPD), the TND overlay district Development Plan and Implementation Plan Document (IPD) has expired or the TND overlay district Development Plan and Implementation Plan Document (IPD) has been made invalid. Any future development requires a submittal of a TND overlay district Development Plan and Implementation Plan Document (IPD) and its approval or a request to rezone the property.

(1) Once a Development Plan and Implementation Plan Document (IPD) has expired for any portion of the Traditional Neighborhood Development Overlay District, no development shall occur within the expired portions of the Traditional Neighborhood Development Overlay District until:

a. A new Development Plan and Implementation Plan Document (IPD) is resubmitted and is recommended for approval by the Plan Commission to Common Council;

b. Common Council approves the Development Plan and Implementation Plan Document (IPD); and

(2) A one (1) year extension of an approved Development Plan and Implementation Plan Document (IPD) may be granted by Common Council for good cause shown by the applicant.

(n) ***Procedure for approval of a Development Plan within the district.*** No development in a TND overlay district shall be permitted within this district unless it is submitted, reviewed, and approved subject to the following procedures:

All required improvements, construction standards, design standards and all other engineering standards contained within the Municipal Code shall be complied with, except where specifically varied through the provisions of this section of the chapter.

Applications shall be made on forms provided by the City and shall be accompanied by the required plans and documents. The application and all requirements shall be reviewed and determined complete by the Community and Economic Development Director. The steps in the procedure are as follows:

(1) ***Step 1. Pre-application conference.*** Prior to filing a formal application for approval of a TND overlay district Development Plan, the applicant shall schedule a pre-application meeting with the Community and Economic Development Director.

a. The purpose of the pre-application conference is to provide two-way communication between the applicant, the Community and Economic Development Director and City staff regarding the legal, planning, engineering and storm water management aspects of the potential development. Accordingly, the applicant shall submit conceptual plans and other pertinent information to the Community and Economic Development Director for review and discussion by other city departments prior to submittal of a TND overlay district application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD). The conceptual plan shall include the entire area of the intended TND overlay district, even if the TND overlay district is to be developed in phases.

b. A pre-application conference review shall consider: success in achieving the purposes of the TND overlay district ordinances; adequacy of public and private services and facilities; ability to conform with all applicable codes and ordinances; utilization of commonly accepted principles of good site planning; and consistency with the comprehensive plan.

c. Submittal requirements for the TND overlay district application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be reviewed as part of the pre-application conference. A submitted item may be waived as part of this review if determined as not needed, already known or needed at a future review process.

d. The aforementioned requirements may be waived at the discretion of the Community and Economic Development Director.

(2) ***Step 2. Application, Development Plan and Implementation Plan Document (IPD).*** The Development Plan, complete application and fee and Implementation Plan Document (IPD) for the TND overlay district shall be submitted by the applicant to the Community and Economic Development Director who, after determining the application to be complete, will file the Development Plan, complete application and fee, and Implementation Plan Document (IPD) for the TND overlay district. The application and fee shall be filed with the City Clerk and the application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be forwarded to the Plan Commission for their consideration, informal hearing, and recommendation.

The required procedure for consideration and approval of the TND overlay district shall be:

a. **Submission of materials.** The applicant shall prepare and submit the following plans and documents:

1. All information listed in §23-152(o), Specific contents of Development Plans.

2. Written application and application fee for approval of a TND overlay district to be made on forms and in the manner prescribed by the City.

3. A completed copy of the Implementation Plan Document (IPD) as prescribed by the City shall be submitted to the Community and Economic Development Director on a diskette or by electronic mail. The Implementation Plan Document (IPD) functions to inform all whom deal with the TND overlay district of the restrictions placed upon the land and acts as a customized zoning district control device.

4. A statement of conformity with City's other relevant ordinances along with a list of any requested variations from these ordinances.

b. **Development Plan and Implementation Plan Document (IPD) review.** The Community and Economic Development Director shall coordinate a review of the Development Plan and Implementation Plan Document (IPD) to include review by all relevant departments and submit written findings and recommendations to the Plan Commission for an informal hearing.

c. **Informal hearing.** The Plan Commission shall hold an informal hearing on each application for approval of a TND overlay district including the Development Plan and Implementation Plan Document (IPD) in accordance with §23-65(d), Map amendments, of this chapter.

d. **Plan Commission findings.** Following the informal hearing, the Plan Commission shall make its findings and recommendations and send a written report to the Common Council that shall include findings of fact upon which its recommendations are based. Such findings and recommendations shall include a recommendation for approval, disapproval or approval with modifications. This report to the Common Council must be submitted within thirty (30) days after the last session of the informal hearing of the Plan Commission or the Plan Commission must indicate to the Common Council, in writing, why such report cannot be rendered within that time period.

e. **Common Council action.** The Common Council shall hold a public hearing and act upon the recommendation within forty-five (45) days after receipt of the Plan Commission's report. The Common Council may approve, approve with modifications, refer back to the Plan Commission, disapprove the plan or provide written explanation to the petitioner on why an extension is required for Common Council action. The time period for action shall be exclusive of any time extensions or continuances requested by the petitioner.

f. **Period of validity.**

(1) The Development Plan and Implementation Plan Document (IPD), as approved by the Common Council, shall remain valid for a period of one (1) year during which time building permit(s) for a substantial portion of development occurring within the approved first phase of the Development Plan or, if the Development Plan does not consist of development phases, the complete Development Plan must be applied for and received by the applicant. The one (1) year period shall begin on the date the Common Council approves the TND overlay district, Development Plan and Implementation Plan Document (IPD).

a. For the purposes of this section, "substantial portion of development" shall mean that at least thirty percent (30%) of the building permits required for the overall project or phase, if in phases, have been applied for and approved.

(2) The Common Council may extend this period upon recommendation of the Plan Commission. If the applicant does not apply for and receive a building permit within one (1) year from the date of Common Council approval of the TND overlay district, Development Plan and Implementation Plan Document (IPD), the Development Plan and Implementation Plan Document (IPD) will constitute abandonment of the TND overlay district and related approvals, and any assumed development rights over that allowed through the base-zoning district and shall be subject to the regulations in §23-152(m), Proof of validity and expiration of plans, of this chapter.

g. **Recording of Development Plan and Implementation Plan Document (IPD).**

(1) The applicant shall file the Development Plan and Implementation Plan Document (IPD) signed by all parties in the Register of Deeds Office of the jurisdictional county within thirty (30) days from the date of Common Council approval of the TND overlay district and shall provide the Community and Economic Development Director a recorded copy of the Development Plan and Implementation Plan Document (IPD). This constitutes approval of the Development Plan and Implementation Plan Document (IPD), conditions applied, modifications and any density premiums which may be granted and exceptions, if any, to the plan shown in the application ordered by the Common Council.

(2) No permit allowing construction of a building or other development, shall take place until the required recording of the Development Plan and Implementation Plan Document (IPD) and the posting by the applicant of the required improvement deposits and relevant City fees unless permitted by the Community and Economic Development Director. The applicant shall pay all recording costs.

(o) ***Specific content of development plans.*** TND overlay district Development Plans and supporting data shall include all documentation listed in this section of the zoning ordinance. In developing plans and specifications for all required improvements, the applicant must also conform to the standards set forth in applicable sections of the Municipal Code.

(1) ***Development Plan set***. A complete set of Development Plans, a digital file of the Development Plan, a TND overlay district rezoning or TND overlay district amendment application and the appropriate fee as established by Common Council.

a. **A topographic survey and location map.**

b. **Detailed plan.** The applicant shall provide a drawing of the TND overlay district Development Plan shall be prepared at a scale not less than one (1) inch equals one hundred (100) feet, or as considered appropriate by the Community and Economic Development Director, and shall show such designations as proposed streets, lots, all buildings showing their setback dimensions to lot lines and their use, common open space, recreation facilities, parking areas showing their setback dimensions to lot lines, service areas and other facilities to indicate the character of the proposed development. Provide note(s) identifying the lot coverage percentage of impervious surface coverage and the percentage of permanent common open space within the TND overlay district.

The submission may be composed of one (1) or more sheets and drawings and shall include:

1. Boundary lines. Bearings, distances and acreage.

2. Easements. Location, width and purpose.

3. Existing land use. On TND overlay district property and up to one hundred fifty (150) feet on adjacent lots.

4. Other conditions on adjoining land such as actual direction and gradient of ground slope, including any embankments or retaining walls; character and location of major buildings, railroads, power lines, towers and other nearby nonresidential land uses or adverse influences, for owners of adjoining platted land refer to subdivision plat by name, recording date and number and show approximate percent built up, typical lot size and dwelling type.

5. Zoning on and adjacent to the tract.

6. Streets on and adjacent to the tract. Such as street name, right-of-way width, existing or proposed centerline elevations pavement type, walks, curbs, gutters, culverts, etc.

7. General location, purpose, and height of each residential and non-residential building.

8. Map data. Name of development, north point, scale, and date of preparation.

9. An accurate legal description of the entire area within the TND overlay district.

The following subsections 10 through 22 may be waived by the Community and Economic Development Director:

10. Proposed public improvements. Such as highways and other major improvements planned by public authorities for future construction on or near the tract.

11. Utilities on and adjacent to the tract such as location, size and invert elevation of sanitary and storm sewers, location and size of water mains, location of gas lines, fire hydrants, electric and telephone lines and street lights, direction and distance to, and size of nearest water mains and sewers adjacent to the tract showing invert elevation of sewers.

12. Ground elevation on the tract and on the first fifty (50) feet on all adjacent tracts. Showing one (1) foot contours for land which slopes less than one-half percent (½%) along with all breaks in grades, at all drainage channels or swales and at selected points not more than one hundred (100) feet apart in all directions; for land that slopes more than one-half percent (½%) showing two (2) foot contours. Any land within the one hundred (100) year floodplain within the project area shall be identified on these plans.

13. Subsurface conditions on the tract. Tests made to ascertain subsurface soil, rock and groundwater conditions, depth to groundwater, unless test pits are dry at a depth of five (5) feet.

14. Other conditions on the tract. Water courses, marshes, rock outcrops, wooded areas, isolated trees one (1) foot or more in diameter, existing structures and other significant features.

15. Title and certificates. Present tract designation according to official records in office of the Register of Deeds, title under which the proposed development is to be recorded, with names and addresses of owners and notation stating acreage. Owners shall include beneficial owners of any land trust.

16. Names. The names and addresses to who notices of hearings shall be sent, including the subdivider or developer, the designer of the subdivision or development and the owners of the land immediately adjoining the land to be platted.

17. Open space. All parcels of land intended to be dedicated for public use or reserved for the use of all property owners, with the purpose indicated.

18. Miscellaneous. Such additional documents as may be required by the Community and Economic Development Director. The Community and Economic Development Director shall inform the applicant of such requirements after the pre-application conference.

19. A drainage plan signed by a Wisconsin Registered Professional Engineer that conforms with City standards for site drainage.

20. Tabulation on each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre.

21. An accurate legal description of each separate unsubdivided use area, including open space.

22. A storm water management plan signed by a Wisconsin Registered Professional Engineer that conforms to City Storm Water Management Ordinance.

c. **Exceptions.** Identification and explanation of those aspects of the proposed TND overlay district that vary from the zoning ordinance requirements applicable to the underlying zoning district and from other applicable regulations of the City.

d. **Character.** Explanation of the character of the TND overlay district and the reasons why it has been planned to take advantage of the flexibility of these regulations. This item shall include a specific explanation of how the proposed TND overlay district meets the objectives of this section.

e. **Ownership.** Statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.

f. **Landscape and lighting plan.** A general landscape concept plan for the site as well as a lighting concept plan for the site and the effects of such lighting on adjacent properties.

The following subsections g. through p. may be required by the Community and Economic Development Director:

g. **Schedule.** Development schedule indicating:

1. Stages in which the project will be built, with emphasis on area, density, use and public facilities, such as open space to be developed with each stage. Each stage shall be described and mapped as a unit of the project. Overall design of each unit shall be shown on the plan and through supporting graphic material.

2. Dates for beginning and completion of each stage.

h. **Covenants.** Proposed agreements, provisions, or covenants which will govern the use, maintenance and continued protection of the TND and any of its common open space. Proposed condominium declaration and bylaws of condominium form of ownership or homeowner's association if it is to be used in the TND overlay district.

i. **Non-residential intensity.** Information on the type and amount of non-residential uses including building locations, sizes, building height, the amount and location of common open space, the hours of operation, number of employees and specific uses.

j. **Architectural plans.** Preliminary architectural plans for all primary buildings shall be submitted in sufficient detail to permit an understanding of the style of the development, the design elements of the building and the number, size and type of dwelling units.

k. **Facilities plan.** Development plans and feasibility reports for:

1. Streets, including classification, width of right-of-way, width of pavement and construction details.

2. Sidewalks.

3. Sanitary sewers.

4. Storm drainage.

5. Water supply system.

6. Street lighting.

7. Public utilities.

l. **Community-benefit analysis.** A study indicating the fiscal impact of the TND overlay district on major taxing bodies which shall include the municipal corporation, school district(s) and other taxing bodies. Information will include detailed estimates on: expected population of the development, the operating cost to be incurred by each taxing body, any additional major capital investments required, in part or in whole, because of the TND overlay district, revenue generated for each taxing body by the TND overlay district to offset service and fiscal demands created by the TND overlay district.

m. **Traffic analysis.** A study of the impact caused by the TND overlay district on the street and highway systems operating in the City.

n. **Market information.** Documentation indicating the extent of market demand for the uses proposed in the TND overlay district including analysis of demographics, sales potentials, competitive alignment, assessment of market share and market positioning of each component of the TND overlay district.

o. **Environmental analysis.** The major impacts of the TND overlay district on the environment shall be analyzed and shall disclose all major negative impacts. Generally, these impacts would include effects on discrete ecosystems, deteriorated air quality in the immediate vicinity and along arterial and collector roads leading to the TND overlay district to a distance established by the City Engineer, any deterioration in the groundwater or surface water quality, effect on sensitive land areas such as floodplains, wetlands, forests, aquifer recharge areas, historic buildings or structures.

p. **Open space standards**. All open space, at the election of the City shall be:

1. Conveyed to the City; or

2. Conveyed to a not-for-profit corporation or entity established for the purpose of benefiting the owners and tenants of the TND overlay district or adjacent property owners or any one (1) or more of them. All lands so conveyed shall be subject to the right of grantee(s) to enforce maintenance and improvement of the common open space; or

3. Guaranteed by a restrictive covenant describing the open space and its maintenance and improvement, running with the land for the benefit of residents of the TND overlay district or adjacent property owners.

(p) ***Findings of fact.*** In reporting its findings and recommendations on a TND overlay district Development Plan and Implementation Plan Document (IPD) to the Common Council, the Plan Commission will submit findings of fact upon which it has based its recommended action. These findings of fact will relate to the specific proposal and shall set forth with particularity in what respects the proposal would or would not be in the public interest, including findings of fact on the following:

(1) In what respects the proposed plan is or is not consistent with the stated purpose, requirements, and standards of the TND overlay district regulations.

(2) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property and the reasons why such departures are or are not deemed to be in the public interest.

(3) The extent of public benefit of the TND overlay district in terms of meeting planning objectives and enhancing the tax base and economic development. Any specific beneficial actions, plans, or programs agreed to in the TND overlay district proposal which are clearly beyond the minimum requirements of this chapter shall be specifically listed as evidence of justified exceptions.

(4) The physical design of the proposed plan and the manner in which said design makes adequate provision for public services, provides adequate control over vehicular traffic, provides for common open space and furthers the amenities of light, air, recreation and visual enjoyment.

(5) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.

(q) ***Changes in the TND overlay district.*** A TND overlay district shall be developed only according to the approved and recorded Development Plan and Implementation Plan Document (IPD) and all supporting data. The recorded Development Plan, Implementation Plan Document (IPD) and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assigns and shall limit and control the use of the premises (including the internal use of buildings and structures) and location of structures in the TND overlay district, as set forth therein.

(1) ***Major changes***. Changes which alter the concept or intent of the TND overlay district, including:

a. Increases in the density by more than ten percent (10%);

b. Increases in the height of building(s) by more than ten percent (10%);

c. Reductions of proposed open space by more than ten percent (10%);

d. Modification in proportion of housing types by more than ten percent (10%);

e. Changes in standards of infrastructure or alignment of streets, including major alterations in the placement of utilities, water, electricity, drainage or changes in the final governing agreements, provisions or covenants.

Major changes may be approved only by submission of a new Development Plan and supporting data, and following the Development Plan and Implementation Plan Document (IPD) approval steps, holding of a new public hearing and subsequent amendment and recordation of the Implementation Plan Document.

(2) ***Minor changes***. The Community and Economic Development Director may approve minor changes in the TND overlay district that do not change the concept or intent of the development, without going through the Development Plan approval steps. Minor changes are defined as any change not defined as a major change.

Any minor changes approved shall be properly filed with the Community and Economic Development Director or it shall be automatically deemed to be a major change.

(r) ***TND overlay district design standards.***

(1) ***Open space standards***. Design standards for open spaces within a TND overlay district are established below:

a. At least twenty percent (20%) of the gross acreage of the TND overlay district shall be open space, exclusive of yards on private property.

b. Open space may include undevelopable areas such as steep slopes or wetlands and stormwater detention and retention basins, parks, playgrounds, landscaped green spaces and natural areas.

c. At least twenty-five percent (25%) of open space must be common open space dedicated to the public for parkland or civic open spaces.

d. In its design, at least eighty percent (80%) of the lots within areas devoted to residential uses shall be within a quarter (1/4) mile (645 feet) walk from common open space.

e. The location of common dedicated open spaces shall be consistent with locations established in parks and recreation plans adopted by the City.

One (1) or more open space types as identified below shall be incorporated as an integral part of the TND overlay district as appropriate. Open spaces may be active or passive recreation. Large outdoor recreation areas shall be located in the most appropriate areas of the development to serve the TND overlay district and, potentially the surrounding area, whether at the periphery of neighborhoods or in central locations of the neighborhood.

1. Environmental corridors;

2. Protected natural areas;

3. Community parks;

4. Streams, ponds and other bodies of water;

5. Stormwater detention/retention facilities.

(2) ***Mix of uses***. In order to achieve the proximity to make neighborhoods walkable, mixed-use environments are required. Mixes include residential, non-residential and open spaces. Two types of areas are required:

a. **Residential use area.** The purpose of these areas is to promote a core of residential housing for the TND overlay district. A mix of the following types can occur anywhere within the TND overlay district. For infill development, the mix of residential uses may only be satisfied by infilling with the same type of residential uses that are adjacent to the infill property.

Residential use area uses include:

1. Single-family detached dwellings;

2. Single-family attached dwellings including duplexes, townhouses and row houses;

3. Multi-family dwellings;

4. Group housing.

b. **Mixed use area.** The purpose of these areas is to promote a community center or focal point for the TND overlay district. A mix of non-residential uses including commercial, civic or institutional and open spaces shall be within approximately one quarter (1/4) mile or within a five (5) minute walk from residential use areas.

Mixed-use area uses include:

1. Commercial (non-residential) uses;

2. Single-family attached dwellings including duplexes, townhouses and row houses;

3. Multi-family dwellings;

4. Residential units located on the upper floors above or to the rear of storefronts;

5. Public or semi-public uses;

6. Open spaces including a civic square, neighborhood park or playground.

(3) ***Lot and block standards***. In order to create an environment that is pedestrian friendly, a traditional grid and block system is required.

a. **Block and lot size diversity.** Street layouts shall provide for blocks that are in the range of four hundred (400) to eight hundred (800) feet long. A variety of lot sizes shall be provided to facilitate housing diversity and choice.

b. Blocks shall be established in a grid system without curvilinear streets.

c. All access to private garages, service structures and utilities shall be located in an alley that shall be located behind all uses and divide blocks.

(4) ***Circulation standards***. The circulation system in a TND overlay district shall allow for different modes of transportation both internally and with external connections.

a. Circulation between different modes of transportation shall be minimized (pedestrian, bicycle and motor vehicle).

b. Street intersections shall be at right angles.

c. Streets shall terminate at other streets or at public land. Stub streets are permitted only when such streets will act as a connection to future phases of development.

(5) ***Parking standards***. Shared or community parking is encouraged. In addition:

a. Off-street parking areas for commercial businesses and multifamily buildings shall be located at the rear or side of a building.

b. In mixed-use areas, adjacent on-street parking may apply toward the minimum off-street parking requirement.

(6) ***Architectural standards***. A variety of architectural features and building materials is required to give each building or group of buildings a distinct character.

a. **Existing structures.** If an existing structure is determined to be historic or architecturally significant, shall be protected from demolition or encroachment by incompatible structures.

b. **New structures.**

1. Height

   i. New structures in a TND overlay district shall be as regulated in the table in §23-152(f), Area, height and yard requirements.

   ii. Adjacent buildings shall be no more than twenty-five percent (25%) taller or shorter than the average building height on the block to create a unified streetscape.

2. Entries and facades

   i. The architectural features, materials, and the articulation of a facade of a building shall be continued on all sides visible from a public street.

   ii. The front facade of the principal building on any lot in a TND overlay district shall face onto and be parallel to a public street.

   iii. The front facade shall not be oriented to face directly toward a parking lot.

   iv. Porches, roofs, roof overhangs, hooded front doors or other similar architectural elements shall define the front entrance to all residences.

   v. For commercial buildings, a minimum of fifty percent (50%) of the front facade on the ground floor shall be transparent, consisting of window or door openings allowing views into and out of the interior.

   vi. New structures on opposite sides of the same street should follow similar design guidelines. This provision shall not apply to buildings bordering civic uses.

(7) ***Signage standards***. A master sign program is required for the TND overlay district that establishes a uniform exterior sign theme. Signs shall share a common style (e.g. size, shape, material). Signage shall be limited to wall, awning and projecting signage pursuant to the area and size requirements of Article XIV, Signs.

(8) ***Street trees***. One (1) street tree shall be required per forty (40) feet of street frontage. Deciduous canopy trees shall be used.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96; Ord 121-05, §1, 10-25-05; Ord 85-06, §1, 7-11-06; Ord 162-08, §1, 10-7-08; Ord 211-11, §1, 9-27-11)

**Secs. 23-153 – 23-171. Reserved.**

## ARTICLE IX. OFF-STREET PARKING AND LOADING

### Sec. 23-172. Off-street parking and loading standards.

(a) ***Purpose.*** The purpose of this section is to prevent or alleviate the congestion of the public streets and promote the safety and welfare of the public by establishing minimum requirements for off-street parking and loading spaces according to the use of the property and to promote safety and convenience for people by requiring that off-street parking spaces and driveways be located and constructed according to consistent standards for visibility, accessibility and safety.

(b) ***Applicability.***

(1) All uses hereafter established, reconstructed, expanded, or changed in use shall provide off-street parking spaces, bicycle parking spaces and loading spaces in accordance with the applicable standards set forth in this chapter, unless otherwise stated in this chapter.

(2) All off-street parking lots and spaces, bicycle parking spaces and loading spaces shall be maintained, overlayed, resurfaced, rehabilitated, constructed, reconstructed or expanded in accordance with the applicable standards set forth in this chapter, unless otherwise stated.

(c) ***Provisions for nonconforming off-street parking lots, or loading areas.***

(1) Provisions for maintenance, overlays, resurfacing, rehabilitation, reconstruction or expansions of nonconforming off-street parking lots or loading areas are found under the Nonconforming Buildings, Structures, Uses and Lots section of this chapter.

(d) ***Exceptions to design standards.*** The following are exempt from the design standards of this chapter.

(1) Due to the primarily pedestrian orientation of the Central Business District (CBD), the off-street parking and loading requirements of this section do not apply to uses within the Central Business District CBD zoning district unless otherwise stated in this chapter.

(2) Parking ramps and underground parking facilities. Shall be exempt from dimensional and landscaping requirements of this section, but all other requirements of this section shall be complied with.

(3) Semi truck and trailer parking areas within industrial districts and designed solely for semi-truck and trailer parking shall be exempt from dimensional, striping, surfacing and interior landscaping requirements, provided all of the following requirements are complied with.

a. The entrance must be asphalt or concrete for at least the first twenty-five (25) feet from the right-of-way.

b. All loading areas must be asphalt or concrete.

c. The gravel must be periodically graded and maintained in a dust free manner, free of debris, weeds and other plant materials.

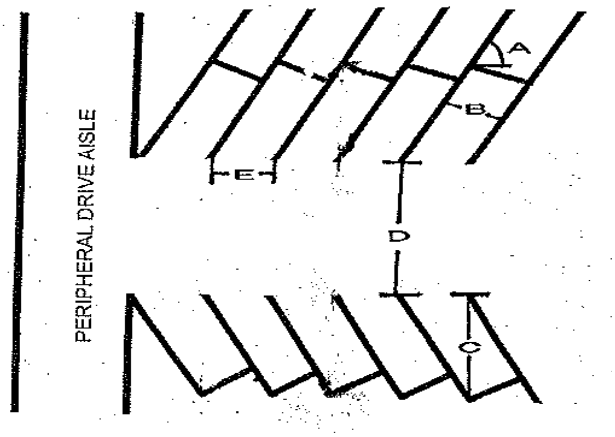
d. The street adjoining the driveway must be free of gravel from the parking lot.

e. A gravel semi-truck and trailer parking area shall not be located adjacent to a residentially zoned parcel.

(e) ***Design standards.*** All off-street parking spaces and off-street parking lots or areas shall conform to the following design requirements, unless otherwise stated in this chapter:

**Table 1**
**Off-Street Parking Spaces**

| Angle A (in degrees) | Width B | Depth C | Aisle D | | Stall E |
|---|---|---|---|---|---|
| | | | One Way | Two Way | |
| 0 | 9 feet | N/A | 12 feet | 22 feet | 22 feet |
| 45 | 9 feet | 19 feet | 13 feet | 22 feet | 12½ feet |
| 60 | 9 feet | 20½ feet | 18 feet | 24 feet | 10½ feet |
| 90 | 9 feet | 18 feet | 24 feet | 24 feet | 9 feet |




(1) ***Dimensions.*** The minimum dimensional standards for off-street parking spaces shall be as identified in Table 1, Off-Street Parking above.

(2) ***Striping.*** All off-street parking spaces shall be striped according to the standards of Table 1, Off-street Parking Spaces of this section to facilitate the movement into and out of the off-street parking spaces.

(3) ***Maneuvering***. All off-street parking spaces shall be designed to provide all maneuvering to occur within the property line(s). Vehicles shall not back into the public right-of-way from an off-street parking lot or parking space.

(4) ***Parking space for handicapped.*** Any off-street parking lot, parking ramp or underground parking facility to be used by the general public shall provide parking spaces designated and located to adequately accommodate the handicapped. These spaces shall comply with the current edition of the International Code Council/American National Standards Institute (ICC/ANSI) as adopted by the State of Wisconsin and the current Federal standards of the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

(5) ***Drainage***. All off-street parking areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties and onto sidewalks unless this requirement is waived by the Director of Public Works or their designee. On-site storm drainage shall be provided in accordance with the State Plumbing Code, City Plumbing Code, and the City Stormwater Management Ordinance.

(6) ***Protection Devices***.

a. Barriers, curbing, guardrails or wheel stops may be installed and so located as to prevent any portion of a vehicle from projecting beyond property lines, into any required landscaping and screening, or into a pedestrian space. Such barriers, curbing or wheel stops shall be constructed and anchored to prevent their dislocation.

b. When guardrails are installed, they shall be installed in accordance with all of the following provisions:

i. Guardrails shall abut the paved off-street parking lot, parking space, loading space or driveway surface and shall be located adjacent to a side or rear lot line.

ii. Landscape buffering or fencing shall be installed between the guardrail and a residentially zoned property line.

iii. Guardrails shall not exceed three (3) feet in height.

iv. Guardrails may be constructed of naturally resistant or treated wood board, galvanized metal, wrought iron, brick, natural stone, masonry, or other material as approved by the Community and Economic Development Director.

(7) ***Surface areas for off-street parking spaces.*** Off-street parking spaces and driveways, shall be concrete, asphalt, or another permeable hard surface as approved by the Community and Economic Development Director.

(8) ***Fire access lanes.*** Fire access lanes located outside of an off-street parking lot and constructed for the purpose of fire access may be constructed with an alternative surface material as required by §23-172(f)(7) if approved by the Fire Department.

(9) ***Lighting***. All outdoor lighting shall comply with the outdoor lighting requirements of this chapter.

(10) ***Snow storage***. Snow storage must be provided on-site or a letter from the owner of the property stating the method to remove the snow from the site in a timely fashion must be approved by the Community and Economic Development Director. Snow storage areas will be reviewed to ensure the continued health of plant materials and for their impact on drainage and vehicular circulation.

(11) ***Stop sign***. When access is obtained from a collector or arterial street, a stop sign is required to be erected on the property by the owner. Stop signs shall be installed and maintained in accordance with the Federal Highway Administration Manual of Uniform Traffic Control Devices, the latest version.

(f) ***Interior parking lot landscaping.***

(1) All parking lots designed for twenty (20) or more parking spaces shall be landscaped in accordance with the following interior parking lot standards.

a. Five percent (5%) of the minimum square footage of the paved area of the off-street parking lot shall be devoted to interior landscape islands.

1. The landscape islands shall contain a minimum of one hundred sixty (160) square feet.

b. The primary plant materials shall be shade or ornamental trees with at least one (1) shade tree for every one hundred sixty (160) square feet of interior landscape island area.

c. The interior landscape islands shall be dispersed throughout the off-street parking lot to the satisfaction of the Community and Economic Development Director.

(2) All off-street parking lots designed for nineteen (19) off-street parking spaces or less shall provide landscaping as deemed appropriate by the Community and Economic Development Director.

(g) ***Perimeter parking lot and loading space landscaping.*** Perimeter off-street parking lot landscaping shall be installed on the property, outside of the street right-of-way.

(1) The minimum width of the perimeter landscape buffer adjacent to the right-of-way and/or abutting zoning districts shall be as stated in Table 2, Parking Lot and Loading Space Buffering Requirements.

(2) When adjacent to a residential zoning district in the rear and/or side yard, perimeter landscape buffer shall be required as stated in Table 2, Parking Lot and Loading Space Buffering Requirements.

(3) When adjacent to an institutional, commercial or industrial zoning district in the rear and/or side yard, perimeter landscape buffer shall be required as stated in Table 2, Parking Lot and Loading Space Buffering Requirements.

(4) Perimeter landscaping shrubs must reach three (3) feet in height and screen the right-of-way from the adverse effects of the parking lot within two (2) years of planting. The shrubs shall be a minimum of two (2) feet in height at the time of planting.

(5) A side and/or rear yard minimum perimeter landscape buffer may be waived if a cross access easement agreement between adjoining property owners is recorded and submitted to the Community and Economic Development Department for review.

(h) ***Maintenance***. All off-street parking lots shall be maintained by the property owner in good condition without holes or faded striping and free of all weeds, standing water, trash, abandoned or junk vehicles and other debris.

**Table 2 Parking Lot Buffering Requirements**

| When the Zoning District is: | Location is: | A Minimum Perimeter Landscape Buffer | Perimeter Landscaping Materials |
|---|---|---|---|
| C-O, M-1, M-2, P-I | Abutting R-1A, R-1B, R-1C, R-2, or R-3 zoned lot in the rear and/or side yard | Fifteen (15) feet in width | Minimum five (5) foot high staggered row of evergreens at the time of planting, to provide an opaque screen<br>OR<br>The property owner may request a waiver from the Community and Economic Development Director to reduce the minimum perimeter landscape strip by 50% and provide a minimum six (6) foot high alternating board on board fence with landscaping, with the landscaping facing the adjacent property. |
| C-1, C-2, CBD, AG, P, NC | Abutting R-1A, R-1B, R-1C, R-2, or R-3 zoned lot in the rear and/or side yard | Ten (10) feet in width | |
| C-O, C-1, C-2, M-1, M-2, P-I, CBD, AG, P, NC | Abutting C-O, C-1, C-2, M-1, M-2, P-I, CBD, AG, P or NC zoned lot in the rear and/or side yard | Five (5) feet in width | One (1) deciduous shade tree or ornamental tree shall be planted for every fifty (50) feet on center. Trees can be provided in cooperation with adjacent property. |
| C-O, C-1, C-2, M-1, M-2, CBD, P-I, AG, P, NC | Across the street from R-1A, R-1B, R-1C, R-2 or R-3 zoned lot | Eight (8) feet in width adjacent to the right of way | One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the property abuts a dedicated public street plus a two (2) to three (3) feet high staggered row of evergreens at the time of planting shall be provided across 80% of the frontage of the parking lot excluding driveways to provide an opaque screen. |
| C-O, C-1, C-2, P-I, M-1, M-2, CBD, AG, P, | Across the street from C-O, C-1, C-2, P, NC, M-1, AG, CBD, P-I or M-2 zoned lot | Eight (8) feet in width adjacent to the right of | One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the property abuts a dedicated public street plus a two (2) to three (3) feet |

| When the Zoning District is: | Location is: | A Minimum Perimeter Landscape Buffer | Perimeter Landscaping Materials |
|---|---|---|---|
| NC | | way | high staggered row of evergreens and/or deciduous shrubs at the time of planting shall be provided across 80% of the frontage of the parking lot excluding driveways to provide an opaque screen. |
| Ag, R-1A, R-1B, R-1C, R-2, R-3 | Abutting R-1A, R-1B, R-1C or R-2 zoned lot in the rear and/or side yard | Ten (10) feet in width | Minimum five (5) foot high staggered row of evergreens at the time of planting, to provide an opaque screen;<br>OR<br>The property owner may request a waiver from the Community and Economic Development Director to reduce the minimum perimeter landscape strip by 50% and provide a minimum six (6) foot high alternating board on board fence with landscaping, with the landscaping facing the adjacent property. |
| Ag, R-1A, R-1B, R-1C, R-2, R-3 | Abutting R-3, P-I, C-O, C-1, C-2, CBD, M-1, M-2, AG, P or NC zoned lot in the rear and/or side yard | Five (5) feet in width | One (1) deciduous shade tree or ornamental tree shall be planted for every fifty (50) feet on center. Trees can be provided in cooperation with adjacent property. |
| Ag, R-1A, R-1B, R-1C, R-2, R-3 | Across the street from R-1A, R-1B, R-1C or R-2 zoned lot | Eight (8) feet in width adjacent to the right of way | One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the property abuts a dedicated public street plus a two (2) to three (3) feet high staggered row of evergreens at the time of planting shall be provided across 80% of the frontage of the parking lot excluding driveways to provide an opaque screen. |
| Ag, R-1A, R-1B, R-1C, R-2, R-3 | Across the street from P-I, C-O, C-1, C-2, CBD, M-1, M-2, AG, P or NC zoned lot | Eight (8) feet in width adjacent to the right of way | One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the property abuts a dedicated public street plus a two (2) to three (3) feet high staggered row of evergreens and/or deciduous shrubs at the time of planting shall be provided across 80% of the frontage of the parking lot excluding driveways to provide an opaque screen. |

(i) ***Off-site parking spaces.*** The following regulations shall apply to off-site parking spaces and areas:

(1) Off-street parking spaces for all residential uses shall be located on the same lot as the use to which they are associated.

(2) Off-street parking spaces for commercial, industrial or public institutional uses shall be located not more than five hundred (500) feet from the property line of the use being served.

(3) Where such off-site parking spaces are provided, the minimum number of required off-street parking spaces for the use(s) for which the lot is intended to serve shall not be reduced below the minimum required off-street parking spaces for all uses as indicated in this section.

(4) Where such off-site parking spaces are provided on a separate lot to comply with the minimum off-street parking space requirements, shall be guaranteed by written agreement between the owner of the parking lot and the owner of any use located on a separate parcel and served the off-street parking lot. This written agreement may be in the form of a lease, contract, easement or similar instrument, of which the form and duration shall be subject to review and approved by the Community and Economic Development Director.

(5) The property owners shall record the approved off-site parking space agreement in the County Register of Deeds Office, and shall provide one (1) copy of the recorded document to the Community and Economic Development Department.

(6) Any subsequent change in use shall require proof that the minimum parking requirements, per this chapter, have been met for each use of if the owner of a building or use no longer has the right to maintain or use off-site parking spaces on a separate parcel, the owner of a building or use shall have one hundred eighty (180) days within which to accommodate all required off-street parking spaces or to apply for a variance. If the owner is unable to accommodate the off-street parking spaces, or fails to apply for a variance, then the occupancy permit shall be revoked with respect to the building or use for which the separate off-street parking was required. The occupancy permit shall be reinstated when all applicable provisions of this chapter are complied with. As an alternative, a new off-site parking agreement may be arranged in accordance with this chapter.

(j) ***Determination of required off-street parking spaces.*** In computing the number of off-street parking spaces required by this chapter, the following shall apply:

(1) Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross square footage of all floors that may be occupied of a building.

(2) Where maximum capacity is designated as the standard for determining off-street parking space requirements, the maximum capacity shall mean the maximum number of persons permitted to occupy the building under the International Building Code (IBC) and the International Fire Code (IFC), whichever is more restrictive, currently used by the City.

(3) Where the number of employees is designated as the standard for determining off-street parking space requirements, the number of employees on the largest shift shall be used for calculation purposes.

(4) Fractional numbers shall be increased to the next highest whole number.

(k) ***Determination of parking standards not specified.*** Off-street parking space requirements for a use not specifically mentioned in this chapter shall be determined by using the most similar and restrictive off-street parking space requirement as specified by the Community and Economic Development Director based on the intended use, the location of the use, and the expected patronage or use by individuals operating motor vehicles.

(l) ***Applicability of bicycle parking space requirements.*** All uses, except for single and two-family dwellings, hereafter established, reconstructed, expanded, changed in use shall provide bicycle parking spaces in accordance with the standards set forth in this chapter, unless otherwise stated in this chapter. The Central Business District (CBD) is exempt from the bicycle parking standards.

(1) ***Design requirements****:*

a. ***Surfacing:*** Bicycle parking spaces shall be concrete, asphalt or other hard surface such as permeable pavers.

b. ***Location:*** Required bicycle parking spaces may be located indoors or outdoors and must be located on private property.

c. ***Rack/Locker/Support Design:***

i. For each bicycle parking space required, a stationary rack(s) shall be provided which can accommodate bicyclists' locks securing the frame and/or wheels, or a lockable enclosure in which the bicycle is stored shall be provided.

ii. All bicycle racks, lockers, or other facilities shall be securely anchored to the ground or a structure which must hold bicycles securely by means of the frame.

(m) ***Required spaces for specific uses.*** All vehicles connected with the following uses shall be accommodated for on the property in addition to the requirements stated below unless otherwise stated in this chapter. Additional parking as determined by the Community and Economic Development Director may be required to meet these standards. The table on the following page identifies the minimum number of off-street parking spaces to be provided.

| **Use Type** | **Minimum Off-Street Parking Spaces Required** |
|---|---|
| **Residential** | |
| Adult family home | Up to three (3) bedrooms - Two (2) spaces for each dwelling unit. |
| | Four (4) or more bedrooms – Three (3) spaces for each dwelling unit. |
| Bed and breakfast establishment | Two (2) spaces for each dwelling unit plus one (1) space for each tourist room with screening approved by Community and Economic Development Director |
| Dwelling, multi-family | Up to two (2) bedrooms – One space for each dwelling unit. |
| | Three (3) or more bedrooms – Two (2) spaces for each dwelling unit. |
| | Visitor parking – One (1) space for every two (2) dwelling units. |
| Dwelling, single-family detached | Up to three (3) bedrooms - Two (2) spaces for each dwelling unit |
| | Four (4) or more bedrooms – Three (3) spaces for each dwelling unit |
| Dwelling, two-family | Up to three (3) bedrooms – Two (2) spaces for each dwelling unit |
| | Four (4) or more bedrooms – Three (3) spaces for each dwelling unit |
| Residential care apartment complex | Up to two (2) bedrooms – One (1) space for each dwelling unit |
| | Three (3) or more bedrooms – Two (2) spaces for each dwelling unit |
| **Use Type** | **Minimum Off-Street Parking Spaces Required** |
| **Public/Institutional** | |
| Assisted living facility, nursing or convalescent home | One (1) space for every three (3) residents based on the maximum number of residents allowed by license. |
| Auditoriums, stadium, gymnasium | One (1) space for every five (5) persons based on maximum capacity |
| Bus terminal | One (1) space for each five hundred (500) square feet of gross floor area or one (1) space for every five (5) seats; whichever is greater |
| Cemetery Chapel | One (1) space for every six (6) persons based on maximum capacity |
| Club | One (1) space for every five (5) persons based on maximum capacity |
| Community-based residential facility or community living arrangement | One (1) space for every three (3) residents based on the maximum number of residents allowed by license. |
| Dormitories | One (1) space for every six (6) occupants. |
| Educational institution; business, technical or vocational | Classrooms – One (1) space for every three (3) seats based on maximum capacity |
| | Gymnasiums/auditoriums – One (1) space for every five (5) persons based on maximum capacity |
| Educational institution; college or university | Classrooms – One (1) space for every three (3) seats based on maximum capacity |
| | Gymnasiums/auditoriums – One (1) space for every five (5) persons based on maximum capacity |
| Educational institution; elementary | Classrooms – One (1) space for each classroom |

| | |
|---|---|
| school or middle school | Gymnasiums/auditoriums – One (1) space for every five (5) persons based on maximum capacity |
| | Stacking spaces – A minimum of two (2) stacking spaces shall be provided for busses and five (5) for automobiles in a designated drop off area |
| Educational institution; high school | Classrooms – Three (3) spaces for each classroom |
| | Gymnasiums/auditoriums – One (1) space for every five (5) persons based on maximum capacity |
| | Stacking spaces – A minimum of two (2) stacking spaces shall be provided for busses and five (5) for automobiles in a designated drop off area |
| Golf course | Four (4) spaces for each hole |
| | Clubhouse – One (1) space for every four (4) persons based on maximum capacity. |
| Governmental facility | Shall be provided at a ratio of same or similar uses listed in this chapter |
| Museum | One (1) space for each five hundred (500) square feet of gross floor area |
| Hospital | One (1) space for each bed plus one (1) space for each two hundred (200) square feet in any emergency room and/or outpatient area |
| Place of worship | One (1) space for each eight (8) persons based on maximum capacity in the main place of assembly |
| Recreational facility, non-profit | One (1) space for each five (5) persons based on maximum capacity |
| Registered historic place | One (1) space for each four hundred (400) square feet of usable floor area open to the public |

| **Use Type** | **Minimum Off-Street Parking Spaces Required** |
|---|---|
| **Commercial** | |
| Amusement arcade | One (1) space for each five (5) persons based on maximum capacity |
| Automobile maintenance shop | Four (4) spaces for each service bay. |
| Automobile, RV, truck, cycle, boat sales and display lot or rental lot | One (1) space for each four hundred (400) square feet of gross floor area under roof plus one (1) space for each two thousand (2,000) square feet of open sales lot area devoted to the sale and display of vehicles |
| Bar – See Tavern | |
| Body repair and/or paint shop | Four (4) spaces for each service bay |
| Car wash | Drive-in – Six (6) stacking spaces for each washing bay<br><br>Self-service – Three (3) stacking spaces for each washing bay |
| Commercial entertainment, Indoor | One (1) space for each three (3) seats or one space for each two hundred (200) square feet of gross floor area whichever is greater |
| Commercial entertainment, Outdoor | One (1) space for each three (3) seats or one space for each two hundred (200) square feet of outdoor entertainment area, whichever is greater |
| Commercial entertainment, combination of indoor and outdoor | One (1) space for each three (3) seats or one space for each two hundred (200) square feet of gross floor area or outdoor entertainment area, whichever is greater |
| Day care center, adult | One (1) space for each employee plus one (1) space for each five (5) persons based on maximum capacity |
| Day care center, group | One (1) space for employee plus one (1) space for each five (5) children based on the maximum number of children allowed by license. |
| Gasoline sales | Two (2) spaces located at each pump. |
| Greenhouse/greenhouse nursery | One (1) space for every one thousand (1,000) gross square feet of sales area |
| Hotel/motel | One (1) space for each sleeping room plus |
| | Restaurants/taverns – One (1) space for each three (3) persons based on maximum capacity |
| | Meeting rooms/assembly areas – One (1) space for every five (5) persons based on maximum capacity |

| Use Type | Minimum Off-Street Parking Spaces Required |
|---|---|
| **Commercial** | |
| Kennel, indoor or outdoor | One (1) space for each employee plus one (1) space for ten (10) animals served |
| Marina | One (1) space for two (2) boat slips |
| Microbrewery | One (1) space for each three (3) persons based on maximum capacity |
| Office | One (1) space for each three hundred (300) square feet of gross floor area |
| Personal service | One (1) space for each two hundred fifty (250) square feet of gross floor area |
| Personal storage | One (1) space for every five (5) rental or leasable storage units |
| Printing | One (1) space for each two hundred fifty (250) square feet of gross floor area |
| Professional service | One (1) space for each two hundred fifty (250) square feet of gross floor area |
| Recycling and waste recovery center | One (1) space for each five hundred (500) square feet of gross floor area |
| Restaurant | One (1) space for each three (3) persons allowed based on maximum capacity |
| Restaurant, fast food | One (1) space for each two (2) persons allowed based on maximum capacity |
| Retail business | One (1) space for each two hundred fifty (250) square feet of gross floor area |
| Sexually-oriented establishment | One (1) space for each three (3) persons based on maximum capacity |
| Shopping center | Under 100,000 square feet of gross floor area – One (1) space for each two hundred fifty (250) square feet of gross floor area<br><br>100,000 square feet to under 250,000 square feet of gross floor area – One (1) space for each three hundred (300) square feet of gross floor area<br><br>Over 250,000 square feet of gross floor area – One (1) space for each four hundred (400) square feet of gross floor area |
| Tavern | One (1) space for each three (3) persons allowed based on maximum capacity |
| Towing business | One (1) space for each employee plus sufficient space for vehicles towed |
| Veterinarian clinic | One (1) space for each examination room plus one (1) space for each two hundred (200) square feet of gross floor area |
| Wholesale facility | One (1) space for each one thousand (1,000) square feet of gross floor area |

| Use Type | Minimum Off-Street Parking Spaces Required |
|---|---|
| **Industrial** | |
| Asphalt plant | One (1) space for each employee on the largest shift |
| Bulk flammable or combustible liquid storage or distribution facility | One (1) space for each employee on the largest shift |
| Concrete mixing | One (1) space for each employee on the largest shift |
| Freight distribution or moving center | One (1) space for each one thousand (1,000) square feet of gross floor area |
| Manufacturing; custom, light or heavy | One (1) space for each one (1) employee on the largest shift, plus three (3) visitors spaces, plus space to accommodate all company vehicles in connection therewith |
| Research laboratory or testing facility | One (1) space for each five hundred (500) feet of gross floor area |
| Salvage yard or junk facility | One (1) space for each employee on the largest shift plus space to accommodate all company vehicles in connection therewith |
| Warehouse (storage or distribution) | One (1) space for each employee on the largest shift plus three (3) visitor spaces plus space to accommodate all company vehicles in connection therewith |

(n) ***Applicability of off-street loading requirements.*** All uses hereafter established, reconstructed, expanded, changed in use shall provide loading spaces or loading docks in accordance with the standards set forth in this chapter, unless otherwise stated in this chapter.

(1) ***Design requirements****:*

a. ***Size of off-street loading spaces:*** Off-street loading spaces shall not be less than twelve (12) feet wide and thirty (30) feet long for commercial uses and not less than twelve (12) feet wide and sixty (60) feet long for manufacturing uses. Areas dedicated to off-street loading spaces shall be identified with pavement marking and/or signage, indicating that such space(s) are reserved for loading and unloading.

b. ***Surfacing:*** All off-street loading spaces shall be constructed of a durable and dustless hard surface of asphalt, concrete, or other suitable materials capable of withstanding one thousand (1,000) pounds per square inch (psi).

c. ***Drainage:*** All off-street loading spaces shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties and onto sidewalks, unless this requirement is waived by the Director of Public Works or their designee. On-site storm drainage shall be provided in accordance with the State Plumbing Code, City Plumbing Code, and the City Stormwater Management Ordinance.

d. ***Location:*** All required off-street loading spaces shall be located on the same lot as the specific use to be served. In no case shall an off-street loading space be located within the required principal building front yard setback.

e. ***Screening:*** Off-street loading spaces shall be screened in accordance with the following standards:

i. When abutting residentially zoned property, a masonry wall, solid fence, chain link fence with slats, row of evergreen shrubs, or a combination of the above, a minimum of eight (8) feet in height, shall be installed to screen the entire length of the loading space from abutting residentially zoned property. Such masonry wall, solid fence or slats shall complement the exterior of the principal building.

ii. When abutting non-residentially zoned properties, loading spaces shall be screened in accordance with the perimeter landscaping standards of Table 2 Parking Lot Buffering Requirements of this chapter, or with a masonry wall, solid fence, chain link fence with slats, row of evergreen shrubs, or a combination of the above, a minimum of eight (8) feet in height. Such masonry wall, solid fence or slats shall complement the exterior of the principal building.

iii. When abutting a right-of-way, loading spaces shall be screened in accordance with the perimeter landscaping standards of Table 2 Parking Lot Buffering Requirements of this chapter, or with a masonry wall, solid fence, chain link fence with slats, row of evergreen shrubs, or a combination of the above, a minimum of eight (8) feet in height. The buffer shall be installed between the loading space and the right-of-way. Such masonry wall, solid fence or slats shall complement the exterior of the principal building.

f. ***Lighting:*** All outdoor lighting shall comply with the outdoor lighting requirements of this chapter.

g. ***Maneuvering:*** All off-street loading spaces shall be designed so that all maneuvering occurs within the property line(s). Vehicles shall not back from or into the public right-of-way when accessing off-street loading spaces.

(2) ***Required number of off-street loading spaces****:*

a. ***Personal services, professional services, hospitals and hotels or motels:***

i. One (1) space for each ten thousand (10,000) to fifty thousand (50,000) square feet of gross floor area.

ii. Two (2) spaces for each fifty thousand (50,000) to two hundred thousand (200,000) square feet of gross floor area.

iii. One (1) additional space for each seventy-five thousand (75,000) square feet of gross floor area in excess of two hundred thousand (200,000) square feet of gross floor area.

b. ***Other commercial uses, warehouse and industrial uses:***

i. One (1) space for each five thousand (5,000) to twenty thousand (20,000) square feet of gross floor area.

ii. Two (2) spaces for each twenty thousand (20,000) to one hundred thousand (100,000) square feet of gross floor area.

iii. One (1) additional space for each seventy-five thousand (75,000) square feet of gross floor area in excess of one hundred thousand (100,000) square feet of gross floor area.

(o) ***Size of stacking space***. The minimum size standard for a stacking space shall be at least nine (9) feet wide by nineteen (19) feet in length.
(Ord 121-05, §1, 10-25-05; Ord 90-07, §1, 5-8-07; Ord 166-07, §1, 12-25-07; Ord 163-08, §1, 10-7-08; Ord 212-11, §1, 9-27-11; Ord 234-11, §1, 12-27-11)

**Editor's Note***: Article IX of Chapter 23, Off-street parking and loading was repealed and recreated by Ordinance 234-11, adopted by Council on December 21, 2011, published on December 26, 2011 and became effective on December 27, 2011.

**Secs. 23-173 – 23-200. Reserved.**

## ARTICLE X. FLOODPLAIN ZONING

## DIVISION 1. STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS.

### Sec. 23-201. Statutory authorization.

This ordinance is adopted pursuant to the authorization in §62.23, for villages and cities, and the requirements in §87.30, Stats.
(Ord 54-06, §1, 3-21-06)

### Sec. 23-202. Finding of fact.

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.
(Ord 54-06, §1, 3-21-06)

### Sec. 23-203. Statement of purpose.

This ordinance is intended to regulate floodplain development to:

(a) Protect life, health and property;

(b) Minimize expenditures of public funds for flood control projects;

(c) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;

(d) Minimize business interruptions and other economic disruptions;

(e) Minimize damage to public facilities in the floodplain;

(f) Minimize the occurrence of future flood blight areas in the floodplain;

(g) Discourage the victimization of unwary land and homebuyers;

(h) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and

(i) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.
(Ord 54-06, §1, 3-21-06)

### Sec. 23-204. Title.

This ordinance shall be known as the Floodplain Zoning Ordinance for Appleton, Wisconsin.
(Ord 54-06, §1, 3-21-06)

### Sec. 23-205. Definitions.

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

***A Zones***. Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

***Accessory structure or use***. A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

***Base flood***. Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

***Basement***. Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

***Building***. See ***Structure***.

***Bulkhead line***. A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to §30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

***Campground***. Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

***Camping unit***. Any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including, but not limited to, a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.

***Certificate of Compliance***. A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

***Channel***. A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

***Crawlways or Crawl space***. An enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for access to plumbing and electrical utilities.

***Deck***. An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

***Department***. The Wisconsin Department of Natural Resources.

***Development***. Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

***Dryland access***. A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

***Encroachment***. Any fill, structure, equipment, building, use or development in the floodway.

***Existing manufactured home park or subdivision***. A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

***Expansion to existing mobile/manufactured home park***. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring if concrete pads.

***Federal Emergency Management Agency (FEMA)***. The federal agency that administers the National Flood Insurance Program.

***Flood Insurance Rate Map (FIRM)***. A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

***Flood or Flooding***. A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

(a) The overflow or rise of inland waters,

(b) The rapid accumulation or runoff of surface waters from any source,

(c) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or

(d) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

***Flood frequency***. The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.

***Floodfringe***. That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

***Flood hazard boundary map***. A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

***Flood insurance study***. A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

***Floodplain***. Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

***Floodplain island***. A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

***Floodplain management***. Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

***Flood profile***. A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

***Floodproofing***. Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

***Flood protection elevation***. An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: ***Freeboard***.)

***Flood storage***. Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

***Floodway***. The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

***Freeboard***. A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

***Habitable structure***. Any structure or portion thereof used or designed for human habitation.

***Hearing notice***. Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

***High flood damage potential***. Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

***Historic structure***. Any structure that is either:

(a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

***Increase in regional flood height***. A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

***Land use***. Any nonstructural use made of unimproved or improved real estate. (Also see ***Development***.)

***Manufactured home***. A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle".

***Mobile recreational vehicle***. A vehicle which is built on a single chassis, four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles".

***Municipality or municipal***. The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

***NAVD or NORTH AMERICAN VERTICAL DATUM***. Elevations referenced to mean sea level datum, 1988 adjustment.

***NGVD or National Geodetic Vertical Datum***. Elevations referenced to mean sea level datum, 1929 adjustment.

***New construction***. For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

***Nonconforming structure***. An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

***Nonconforming use***. An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

***Obstruction to flow***. Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

***Official floodplain zoning map***. That map, or collection of maps, adopted and made part of this ordinance, as described in §23-206(b), which has been approved by the Department and FEMA.

***Open space use***. Those uses having a relatively low flood damage potential and not involving structures.

***Ordinary high water mark***. The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

***Person***. An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

***Private sewage system***. A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

***Public utilities***. Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

***Reasonably safe from flooding***. Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

***Regional flood***. A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

***Start of construction***. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

***Structure***. Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

***Subdivision***. Has the meaning given in §236.02(12), Wis. Stats.

***Substantial damage***. Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent (50%) of the equalized assessed value of the structure before the damage occurred.

***Unnecessary hardship***. Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

***Variance***. An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

***Violation***. The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

***Watershed***. The entire region contributing runoff or surface water to a watercourse or body of water.

***Water surface profile***. A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

***Well***. An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.
(Ord 54-06, §1, 3-21-06; Ord 19-09, §1, 1-13-09; Ord 106-10, §1, 7-13-10)

**Sec. 23-206. General provisions.**

(a) ***Areas to be regulated.*** This ordinance regulates all areas that would be covered by the regional flood or base flood.

**Note:** Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

(b) ***Official maps and revisions.*** The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the City of Appleton Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Division of Inspections of the Department of Public Works for the City of Appleton. If more than one map or revision is referenced, the most restrictive information shall apply.

(1) ***Official maps based on the FIS:***

a. Calumet County Flood Insurance Rate Map (FIRM), panel numbers 55015C0007E, 55015C0026E and 55015C0027E dated February 4, 2009; with corresponding profiles that are based on the Calumet County Flood Insurance Study (FIS), dated

February 2009, volume number 55015CV000A.

b. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0304E, and 55087C0308E dated January 20, 2016; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated January 20, 2016, volume number 55087CV000B.

c. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0309D, 55087C0314D, 55087C0316D, 55087C0317D, 55087C0318D, 55087C0319D, 55087C0330, 55087C0338D, 55087C0427D, 55087C0431D and 55087C451D dated July 22, 2010; with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A.

d. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0328D, 55087C0329D, 55087C0336D, 55087C0337D dated July 22, 2010 and revised August 23, 2013 with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A, all revised and annotated pursuant to FEMA Letter of Map Revision Determination Document Case No: 12-05-6032P, Issue Date April 10, 2013, Effective Date August 23, 2013.

e. LOMR – Case #11-05-7670P, Floodway and Floodplain revisions between Flood Insurance Study (FIS) Cross Section AW to BA, Outagamie County Flood Insurance Rate Map (FIRM) panels 55087C0318D and 55087C0319D, dated July 22, 2010. This reflects changes on the Fox River from just downstream of the Private Middle Dam to approximately 250 feet upstream of the Appleton Upper Dam.

f. LOMR – Case #13-05-7920P, Floodplain revisions between Flood Insurance Study (FIS) Cross Section AN to AM, Outagamie County Flood Insurance Rate panels 55087C0319D, dated July 22, 2010. This reflects changes along the south side of the Fox River from the College Avenue Bridge to approximately 850 feet downstream.

g. City of Appleton Kensington Pond Dam Break Analysis Hydraulic Shadow, Per Figure F-9 of Dam Failure Analysis and Assignment of the Hazard Rating for Kensington Pond Dam, by Earth Tech, dated January 2008, on file with City of Appleton Department of Public Works.

(2) ***Official Maps based on other studies:***

a. Outagamie County Flood Storage District Map Panel 1 of 2 approved by Wisconsin Department of Natural Resources and dated January 20, 2016. Prepared by DNR, approved by DNR.

(c) ***Establishment of districts.*** The regional floodplain areas are divided into four (4) districts as follows:

(1) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.

(2) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.

(3) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.

(4) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(d) ***Locating floodplain boundaries.*** Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (1) or (2) below. If a significant difference exists,

the map shall be amended according to Division 8. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to §23-293(c) and the criteria in (1) and (2) below.

(1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.

(2) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection, field topographic survey, and any information provided by the Department.

**Note:** Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to §23-305(f).

(e) ***Removal of lands from floodplain.*** Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Division. 8.

**Note:** This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

(f) ***Compliance.*** Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

(g) ***Municipalities and state agencies regulated.*** Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if §13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when §30.2022, Stats., applies.

(h) ***Abrogation and greater restrictions.***

(1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under §62.23, Stats. which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(2) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(i) ***Interpretation.*** In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

(j) ***Warning and disclaimer of liability***. The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this ordinance create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(k) ***Severability.*** Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(l) ***Annexed areas for cities and villages.*** The Calumet, Outagamie and Winnebago Counties floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis.

Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

(m) ***General development standards.*** The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a floodplain area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.
(Ord 54-06, §1, 3-21-06; Ord 20-09, §1, 1-13-09; Ord 107-10; §1, 7-13-10; Ord 34-12, §1, 4-18-12; Ord 78-13, §1, 9-10-13; Ord 12-14, §1, 4-8-14; Ord 52-15, §1, 6-9-15; Ord 103-15, §1, 12-8-15)

**Secs. 23-207 – 23-220. Reserved.**

## DIVISION 2. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

### Sec. 23-221. Hydraulic and hydrologic analyses.

(a) Except as allowed in par. (c) below, no floodplain development shall:

(1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or

(2) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.

(b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (c) are met.

(c) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Division 8.

**Note:** This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR, as appropriate.
(Ord 54-06, §1, 3-21-06)

### Sec. 23-222. Watercourse alterations.

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained. It shall be the responsibility of the person altering the watercourse, to provide the technical or scientific data necessary, to the Zoning Administrator. All data shall be prepared and submitted by a Wisconsin licensed engineer.

As soon as is practicable, but not later than six (6) months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.
(Ord 54-06, §1, 3-21-06)

### Sec. 23-223. Chs. 30, 31 Wis. Stats., development.

Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to Division 8.0.
(Ord 54-06, §1, 3-21-06)

### Sec. 23-224. Public or private campgrounds.

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

(a) The campground is approved by the Department of Health Services.

(b) A land use permit for the campground is issued by the zoning administrator.

(c) The character of the river system and the elevation of the campground is such that a seventy-two (72-) hour warning of an impending flood can be given to all campground occupants.

(d) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood

elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.

(e) This agreement shall be for no more than one (1) calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (d) to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations.

(f) Only camping units are allowed.

(g) The camping units may not occupy any site in the campground for more than one hundred eighty (180) consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of twenty-four (24) hours.

(h) All camping units that remain on site for more than thirty (30) days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed one hundred eighty (180) days and shall ensure compliance with all the provisions of this section.

(i) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.

(j) All camping units that remain in place for more than one hundred eighty (180) consecutive days must meet the applicable requirements in either Division 3 or Division 4 for the floodplain district in which the structure is located.

(k) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.

(l) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation. (Ord 54-06, §1, 3-21-06; Ord 108-10, §1, 7-13-10; Ord 109-10, §1, 7-13-10)

**Secs. 23-225 – 23-235. Reserved.**

## DIVISION 3. FLOODWAY DISTRICT (FW)

### Sec. 23-236. Applicability.

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to §23-266(d). (Ord 54-06, §1, 3-21-06)

### Sec. 23-237. Permitted uses.

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if they are not prohibited by any other ordinance; they meet the standards in §23-238 and 23-239; and all permits or certificates have been issued according to §23-291:

(a) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

(b) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

(c) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of §23-238(d).

(d) Uses or structures accessory to open space uses, or classified as historic structures that comply with §23-238 and §23-239.

(e) Extraction of sand, gravel or other materials that comply with §23-238(d).

(f) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30, 31, Stats.

(g) Public utilities, streets and bridges that comply with §23-238(c).
(Ord 54-06, §1, 3-21-06)

### Sec. 23-238. Standards for developments in floodway areas.

(a) ***General.***

(1) Any development in floodway areas shall comply with Division 2 and have a low flood damage potential.

(2) Applicants shall provide the following data to determine the effects of the proposal according to §23-221.

a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or

b. An analysis calculating the effects of this proposal on regional flood height.

(3) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (2) above.

(b) ***Structures.*** Structures accessory to permanent open space uses, classified as historic structures, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

(1) The structures are not designed for human habitation and do not have a high flood damage potential;

(2) The structures are constructed and placed on the building site so as to increase flood heights less than 0.01 foot and minimally obstruct the flow of floodwaters. Structures shall be constructed with the long axis parallel to the flow of floodwaters and on the same line as adjoining structures;

(3) The structures are properly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and

(4) The structures have all service facilities at or above the flood protection elevation.

(c) ***Public utilities, streets and bridges.*** Public utilities, streets and bridges may be allowed by permit, if:

(1) Adequate floodproofing measures are provided to the flood protection elevation; and

(2) Construction meets the development standards of §23-221.

(d) ***Fills or deposition of materials.*** Fills or deposition of materials may be allowed by permit, if:

(1) The requirements of §23-221 are met;

(2) No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;

(3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

(4) The fill is not classified as a solid or hazardous material.

(Ord 54-06, §1, 3-21-06)

**Sec. 23-239. Prohibited uses.**

All uses not listed as permitted uses in §23-237 are prohibited, including the following uses:

(a) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;

(b) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

(c) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

(d) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code.

(e) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;

(f) Any solid or hazardous waste disposal sites;

(g) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;

(h) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

(Ord 54-06, §1, 3-21-06; Ord 25-12, §1, 3-7-12)

**Secs. 23-240 – 23-250. Reserved.**

## DIVISION 4. FLOODFRINGE DISTRICT (FF)

### Sec. 23-251. Applicability.

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to §23-266(d).
(Ord 54-06, §1, 3-21-06)

### Sec. 23-252. Permitted uses.

Any structure, land use, or development is allowed in the floodfringe district if the standards in §23-253 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in §23-291 have been issued.
(Ord 54-06, §1, 3-21-06)

### Sec. 23-253. Standards for development in floodfringe areas.

Section 23-221 shall apply in addition to the following requirements according to the use requested.

(a) ***Residential uses.*** Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards:

(1) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one (1) foot or more above the regional flood elevation extending at least fifteen (15) feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance impractical and the Board of Appeals grants a variance;

(2) The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;

(3) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (4).

(4) In developments where existing street or sewer line elevations make compliance with par. (3) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:

a. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or

b. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

(b) ***Accessory structures or uses.***

(1) Except as provided in par. (2), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.

(2) An accessory structure which is not connected to the principal structure and which is less than six hundred (600) square feet in size and valued at less than ten thousand dollars ($10,000) may be constructed with its lowest floor no more than two (2) feet below the regional flood elevation if it is subject to flood velocities of no more than two (2) feet per second and it meets all of the provisions of Secs. 23-238(b) (1), (2), (3), (4) and sub. (e) below.

(c) ***Commercial uses.*** Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of §23-253(a). Subject to the requirements of sub. (f), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(d) ***Manufacturing and industrial uses.*** Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in §23-295. Subject to the requirements of sub. (f), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(e) ***Storage of materials.*** Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with §23-295. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(f) ***Public utilities, streets and bridges.*** All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

(1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with §23-295 to the flood protection elevation;

(2) Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(g) ***Sewage systems.*** All on-site sewage disposal systems shall be floodproofed, pursuant to §23-295, to the flood protection elevation and shall meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(h) ***Wells.*** All wells shall be floodproofed, pursuant to §23-295, to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(i) ***Solid waste disposal sites.*** Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(j) ***Deposition of materials.*** Any deposited material must meet all the provisions of this ordinance.

(k) ***Manufactured homes.*** Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

(1) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:

a. Have the lowest floor elevated to the flood protection elevation; and

b. Be anchored so they do not float, collapse or move laterally during a flood.

(2) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in §23-253(a).

(l) ***Mobile recreational vehicles.*** All mobile recreational vehicles that are on site for one hundred eighty (180) consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in §23-253(k)(2). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.
(Ord 54-06, §1, 3-21-06; Ord 110-10, §1, 7-13-10; Ord 25-12, §1, 3-7-12)

**Secs. 23-254 – 23-265. Reserved.**

## DIVISION 5. OTHER FLOODPLAIN DISTRICTS

Other floodplain districts may be established under the ordinance and reflected on the floodplain zoning map. These districts may include general floodplain districts and flood storage districts.

### Sec. 23-266. General floodplain district (GFP).

(a) ***Applicability***. The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and floodfringe districts shall be delineated when adequate data is available.

(b) ***Permitted uses.*** Pursuant to §23-266(d), it shall be determined whether the proposed use is located within a floodway or floodfringe area. Those uses permitted in floodway (§23-237) and floodfringe areas (§23-252) are allowed within the general floodplain district, according to the standards of §23-266(c), provided that all permits or certificates required under §23-291 have been issued.

(c) ***Standards for development in the general floodplain district.*** Division 3 applies to floodway areas, Division 4 applies to floodfringe areas. The rest of this ordinance applies to either district.

(d) ***Determining floodway and floodfringe limits.*** Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

(1) Require the applicant to submit two (2) copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;

(2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:

a A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;

b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;

c. Profile showing the slope of the bottom of the channel or flow line of the stream;

d. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(3) Transmit one copy of the information described in pars. (a) and (b) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of §23-291(b)(3) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

(Ord 54-06, §1, 3-21-06)

### Sec. 23-267. Flood storage district.

The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

(a) ***Applicability.*** The provisions of this section apply to all areas within the Flood Storage District (FSD), as shown on the official floodplain zoning maps.

(b) ***Permitted uses.*** Any use or development which occurs in a flood storage district must meet the applicable requirements in §23-253.

(c) ***Standards for development in flood storage districts.***

(1) Development in a flood storage district shall not cause an increase equal or greater than 0.01 of a foot in the height of the regional flood.

(2) No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.

(3) If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without flood plain storage, as per §23-305 of this ordinance.

(4) No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

(Ord 54-06, §1, 3-21-06)

**Secs. 23-268 – 23-280. Reserved.**

## DIVISION 6. NONCONFORMING USES.

### Sec. 23-281. General.

(a) ***Applicability.*** If these standards conform with s. 62.23(7)(h), Stats., they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

(b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

(1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

The construction of a deck that does not exceed two hundred (200) square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

(2) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;

(3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;

NOTE: Documentation is only required for modifications made to nonconforming structures and uses located in the floodplain.

(4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with §23-253(a). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the fifty percent (50%) provisions of this paragraph;

(5) a. Except as provided in subd. b, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds fifty percent (50%) of the structure's present equalized assessed value.

b. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under 44 CFR Part 60, or under the regulations promulgated thereunder.

(6) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with §23-238(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with §23-295 are used.

(Ord 54-06, §1, 3-21-06; Ord 21-09, §1, 1-13-09)

**Sec. 23-282. Floodway areas.**

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:

(1) Has been granted a permit or variance which meets all ordinance requirements;

(2) Meets the requirements of §23-281;

(3) Will not increase the obstruction to flood flows or regional flood height; and

(4) Any addition to the existing structure shall be floodproofed, pursuant to §23-295, by means other than the use of fill, to the flood protection elevation.

(5) Mechanical and utility equipment must be elevated to or above the flood protection elevation.

(6) It must not obstruct the flow of flood waters or cause an increase in flood levels during the occurrence of the regional flood; and

(7) Its use must be limited to parking and/or limited storage.

(b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. SPS 383, Wis. Adm. Code.

(c) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.
(Ord 54-06, §1, 3-21-06 ; Ord 25-12, §1, 3-7-12)

**Sec. 23-283. Floodfringe areas.**

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in §23-253, except where §23-283(b) is applicable.

(b) Where compliance with the provisions of par. (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in §23-293, may grant a variance from those provisions of par. (a) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

(1) No floor is allowed below the regional flood elevation for residential or commercial structures;

(2) Human lives are not endangered;

(3) Public facilities, such as water or sewer, will not be installed;

(4) Flood depths will not exceed two (2) feet;

(5) Flood velocities will not exceed two (2) feet per second; and

(6) The structure will not be used for storage of materials as described in §23-253(e).

(c) If neither the provisions of par. (a) or (b) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:

(1) Meets all other regulations and will be granted by permit or variance;

(2) Does not exceed sixty (60) square feet in area; and

(3) In combination with other previous modifications or additions to the building, does not equal or exceed fifty percent (50%) of the present equalized assessed value of the building.

(d) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.
(Ord 54-06, §1, 3-21-06; Ord 22-09, §1, 1-13-09 ; Ord 111-10, §1, 7-13-10 ; Ord 25-12, §1, 3-7-12)

**Sec. 23-284. Flood storage areas.**

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in §23-267(c) are met.
(Ord 54-06, §1, 3-21-06)

**Secs. 23-285 – 23-290. Reserved.**

## DIVISION 7. ADMINISTRATION

Where a zoning administrator, planning agency or a Board of Appeals has already been appointed to administer a zoning ordinance adopted under §62.23(7), Stats., these officials shall also administer this ordinance.
(Ord 54-06, §1, 3-21-06)

### Sec. 23-291. Zoning administrator.

(a) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

(1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.

(2) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.

(3) Shall cause to be inspected, all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.

(4) Keep records of all official actions such as:

a. All permits issued, inspections made, and work approved;

b. Documentation of certified lowest floor and regional flood elevations for floodplain development;

c. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.

d. All substantial damage assessment reports for floodplain structures.

(5) Submit copies of the following items to the Department Regional office:

a. Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

b. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.

c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

Note: Information on conducting substantial damage assessments is available on the DNR website: http://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm

(6) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

(7) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

(b) ***Land use permit.*** A land use permit shall be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(1) ***General information.***

a. Name and address of the applicant, property owner and contractor;

b. Legal description, proposed use, and whether it is new construction or a modification;

(2) ***Site development plan.*** A site plan drawn to scale shall be submitted with the permit application form and shall contain:

a. Location, dimensions, area and elevation of the lot;

b. Location of the ordinary highwater mark of any abutting navigable waterways;

c. Location of any structures with distances measured from the lot lines and street centerlines;

d. Location of any existing or proposed on-site sewage systems or private water supply systems;

e. Location and elevation of existing or future access roads;

f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;

g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);

h. Data sufficient to determine the regional flood elevation in NGVD, or NAVD at the location of the development and to determine whether or not the requirements of Division 3 or Division 4 are met; and

i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to §23-221. This may include any of the information noted in §23-238(a).

(3) ***Data requirements to analyze developments.***

a. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in §236, Stats., and other proposed developments exceeding five (5) acres in area or where the estimated cost exceeds $125,000. The applicant shall provide:

i. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;

ii. A map showing location and details of vehicular access to lands outside the floodplain; and

iii. A surface drainage plan showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

(4) ***Expiration.*** All permits issued under the authority of this ordinance shall expire three hundred sixty-five (365) days after issuance.

(c) ***Certificate of compliance.*** No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

(1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;

(2) Application for such certificate shall be concurrent with the application for a permit;

(3) If all ordinance provisions are met, the certificate of compliance shall be issued within ten (10) days after written notification that the permitted work is completed;

(4) The applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or registered architect that floodproofing measures meet the requirements of §23-295.

(d) ***Other permits.*** The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under §404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

(e) ***Compliance.*** Where the information in this section is required to be provided, that information will be gathered by the applicant complying with the building permit requirements of Chapter 4, the site plan requirements of Chapter 23, and the stormwater requirements of Chapter 20 of the Appleton Municipal Code.
(Ord 54-06, §1, 3-21-06; 112-10, §1, 7-13-10)

**Sec. 23-292. Zoning agency.**

(a) The Director of Public Works shall:

(1) Oversee the functions of the office of the zoning administrator; and

(2) Review and advise the Governing body on all proposed amendments to this ordinance, maps and text.

(b) This Director of Public Works shall not

(1) Grant variances to the terms of the ordinance in place of action by the Board of Appeals; or

(2) Amend the text or zoning maps in place of official action by the governing body.
(Ord 54-06, §1, 3-21-06)

**Sec. 23-293. Board of appeals.**

The Board of Appeals, created under §62.23(7)(e), Stats., is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the Board.

(a) ***Powers and duties.*** The Board of Appeals shall:

(1) ***Appeals.*** Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.

(2) ***Boundary disputes.*** Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map, described in §23-206.

(3) ***Variances.*** Hear and decide, upon appeal, variances from the ordinance standards.

(b) ***Appeals to the board.***

(1) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within thirty (30) days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

(2) ***Notice and hearing for appeals including variances.***

a. **Notice.** The Board shall:

i. Fix a reasonable time for the hearing;

ii. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;

iii. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least ten (10) days in advance of the hearing.

b. **Hearing.** Any party may appear in person or by agent. The Board shall:

i. Resolve boundary disputes according to §23-293(c).

ii. Decide variance applications according to §23-293(d).

iii. Decide appeals of permit denials according to §23-294.

(3) ***Decision.*** The final decision regarding the appeal or variance application shall:

a. Be made within a reasonable time;

b. Be sent to the Department Regional office within ten (10) days of the decision;

c. Be a written determination signed by the chairman or secretary of the Board;

d. State the specific facts which are the basis for the Board's decision;

e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;

f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(c) ***Boundary disputes.*** The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

(1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.

(2) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.

(3) If the boundary is incorrectly mapped, the Board should inform the Engineering Division of the Department of Public Works or the person contesting the boundary location to petition the governing body for a map amendment according to Division 8.

(d) ***Variance.***

(1) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

a. Literal enforcement of the ordinance provisions will cause unnecessary hardship;

b. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;

c. The variance is not contrary to the public interest; and

d. The variance is consistent with the purpose of this ordinance in §23-203.

(2) In addition to the criteria in par. (1), to qualify for a variance under FEMA regulations, the following criteria must be met:

a. The variance may not cause any increase in the regional flood elevation;

b. Variances can only be granted for lots that are less than one-half (½) acre and are contiguous to existing structures constructed below the RFE;

c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

(3) A variance shall not:

a. Grant, extend or increase any use prohibited in the zoning district.

b. Be granted for a hardship based solely on an economic gain or loss.

c. Be granted for a hardship which is self-created.

d. Damage the rights or property values of other persons in the area.

e. Allow actions without the amendments to this ordinance or map(s) required in §23-305.

f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

(4) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

(Ord 54-06, §1, 3-21-06)

**Sec. 23-294. To review appeals of permit denials.**

(a) The Director of Public Works, or designee, or Board shall review all data related to the appeal. This may include:

(1) Permit application data listed in §23-291(b).

(2) Floodway/floodfringe determination data in §23-266(d).

(3) Data listed in §23-238(a)(2)b. where the applicant has not submitted this information to the zoning administrator.

(4) Other data submitted with the application, or submitted to the Board with the appeal.

(b) For appeals of all denied permits the Board shall:

(1) Follow the procedures of §23-293;

(2) Consider recommendations from the City departments of Inspections Engineering and Community and Economic Development; and

(3) Either uphold the denial or grant the appeal.

(c) For appeals concerning increases in regional flood elevation the Board shall:

(1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.

(2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

(Ord 54-06, §1, 3-21-06)

**Sec. 23-295. Floodproofing.**

(a) No permit or variance shall be issued until the applicant submits a plan certified by a professional engineer or architect registered in Wisconsin that the floodproofing measures will protect the structure or development to the flood protection elevation.

(b) Floodproofing measures shall be designed to:

(1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

(2) Protect structures to the flood protection elevation;

(3) Anchor structures to foundations to resist flotation and lateral movement; and

(4) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.

(c) Floodproofing measures could include:

(1) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.

(2) Adding mass or weight to prevent flotation.

(3) Placing essential utilities above the flood protection elevation.

(4) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.

(5) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.

(6) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

(Ord 54-06, §1, 3-21-06)

**Sec. 23-296. Public information.**

(a) Where useful, place marks on structures to show the depth of inundation during the regional flood.

(b) Maps, engineering data and regulations shall be available and available for distribution.

(c) All real estate transfers shall show what floodplain zoning district any real property is in.

(Ord 54-06, §1, 3-21-06)

**Secs. 23-297 – 23-304. Reserved.**

## DIVISION 8. AMENDMENTS

### Sec. 23-305. General.

The governing body may change or supplement the floodplain zoning district boundaries and this ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

(a) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.

(b) Correction of discrepancies between the water surface profiles and floodplain zoning maps.

(c) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.

(d) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.

(e) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.

(f) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.
**Note:** Consult the FEMA web site - www.fema.gov - for the map change fee schedule.
(Ord 54-06, §1, 3-21-06)

### Sec. 23-306. Procedures.

Ordinance amendments may be made upon petition of any interested party according to the provisions of §62.23, Stats. Such petitions shall include all necessary data required by §23-266(d) and §23-291(b).

(a) The proposed amendment shall be referred to the Community and Economic Development Department or Inspections Division of the Department of Public Works for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of §62.23, Stats.

(b) No amendments shall become effective until reviewed and approved by the Department.

(c) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

(d) For amendments in areas with no water surface profiles, the City Plan Commission shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See §23-206(a))
(Ord 54-06, §1, 3-21-06)

### Secs. 23-307 – 23-310. Reserved.

## DIVISION 9. ENFORCEMENT AND PENALTIES

### Sec. 23-311. General.

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violations. A violator shall, upon conviction, forfeit to the municipality a penalty of not more than fifty dollars ($50.00), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.
(Ord 54-06, §1, 3-21-06; Ord 113-10, §1, 7-13-10)

### Secs. 23-312 – 23-325. Reserved.

*__Editor's Note__*: Article X of Chapter 23, Floodplain Zoning was repealed and recreated by Ordinance 54-05, adopted by Council on March 15, 2006, published on March 20, 2006 and became effective on March 21, 2006.

## ARTICLE XI. SHORELAND/WETLANDS REGULATIONS

***Reserved for future shoreland/wetland regulations.***

**Secs. 23-326 – 23-389. Reserved.**

## ARTICLE XII. SEXUALLY-ORIENTED ESTABLISHMENTS

### Sec. 23-390. Purpose.

The Common Council finds that, due to their nature, the existence of sexually-oriented establishments in the City has serious objectionable operational characteristics, such as an effect upon property values, local commerce and crime. Due to the deleterious combined effect on adjacent areas when such uses are concentrated, they should not be permitted to be located in close proximity to each other. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. Such regulations are contained in these standards. These standards are designed to protect the City's retail trade, maintain property values, prevent crime, and in general, protect and preserve the quality of the City's neighborhoods, commercial districts and the quality of urban life.

It is not the intent of this article to limit or restrict the content of communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this article to restrict or deny access by adults to materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
(Ord 213-11, §1, 9-27-11

### Sec. 23-391. General standards for sexually-oriented establishments.

(a) ***Standards.*** A sexually-oriented establishment may be permitted as a special use in the C-2 General Commercial District, M-1 Industrial Park District and M-2 General Industrial District provided that:

(1) Such use shall not be located within five hundred (500) feet of any residentially zoned property;

(2) Such use shall not be located within five hundred (500) feet of a public or private educational institution, place of worship, club, park or playground, non-profit recreational facility, child day care center or hotel/motel;

(3) Such use shall not be located within five hundred (500) feet of an establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor;

(4) Such use shall not be located within one thousand (1,000) feet of another sexually-oriented establishment;

(5) No sexually-oriented establishment shall be open between the hours of 2 a.m. and 8 a.m., Monday through Friday, between the hours of 3 a.m. and 8 a.m. on Saturdays or between the hours of 3 a.m. and 12 noon on Sundays;

(6) Any sexually-oriented establishment having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any adult entertainment shall be regulated by the following with each booth, room or cubicle required to meet the following construction requirements:

a. Be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall;

b. Shall be totally accessible to and from aisles and public areas of the sexually-oriented establishment;

c. Shall be unobstructed by any door, lock or other control-type devices;

d. Have at least one (1) side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the same;

e. All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, non-absorbent, smooth textured and easily cleanable;

f. The floor must be light colored, nonabsorbent, smooth textured and easily cleanable;

g. The lighting level shall be a minimum of ten (10) foot candles at all times, as measured from the floor.

(7) Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth.

(8) No sexually-oriented establishment shall be situated in such a manner as to allow public view of its stock in trade, advertisements, displays, promotional materials, screens, loudspeakers, sound equipment, videos, an adult motion picture theater, whether enclosed or drive-in, photographs or other forms of sexually-oriented entertainment shall be shown, seen, heard, discerned or exhibited from outside of the establishment.

(9) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, telephone numbers, date of employment and termination. This information on each employee shall be maintained in the register on the premises for a period of one (1) year following termination of the employee and shall be made immediately available for inspection by the Appleton Police Department and/or the Health Department of the City of Appleton.

(10) No portion of the exterior of an sexually-oriented establishment shall utilize or contain any flashing lights, search lights, spot lights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically permitted pursuant to the Signs article as identified in this ordinance.

(11) An applicant shall not reside with a person who has been denied a permit by the City to operate a sexually-oriented establishment within the preceding twelve (12) months, or shall not reside with a person whose permit to operate an sexually-oriented establishment has been revoked within the preceding twelve (12) months.

(12) An applicant must be eighteen (18) years of age or older.

(13) Further standards may be established as part of the special use permit process on a case-by-case basis for sexually-oriented establishment.

(b) *Application of Distance Standards*: The distances provided in this subsection shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the lot upon which the proposed use is to be located, to the nearest point of the zoning district boundary line or the lot from which the proposed use is to be separated. (Ord 213-11, §1, 9-27-11)

**Sec. 23-392. Standard conditions of approval.**

(a) In addition to complying with §23-66 Special use permits of this ordinance the following shall also apply:

(1) The premises to be used for the sexually-oriented establishment shall be inspected and found to be in compliance with all applicable laws and ordinances by the City of Appleton's Health Department, Fire Department and Inspections Supervisor.

(2) The applicant shall, within thirty (30) days after the issuance of the Special Use Permit referred to herein, deliver to the Community and Economic Development Director, or designee, a list containing the names and addresses of all employees. The applicant shall update the list within thirty (30) days of any change or addition of employees. This list, or update, shall be signed, under oath, by the applicant.

(3) The fact that a person possesses other types of state or county permits does not exempt that individual from the requirement of obtaining a City-issued sexually-oriented establishment Special Use Permit.

(4) An applicant shall pay any unpaid City of Appleton taxes, fees, fines, or penalties assessed against or imposed upon them in relation to a sexually-oriented establishment prior to the issuance of a Special Use Permit.

(5) The Special Use Permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually-oriented business. The permit shall be posted in a

conspicuous place at or near the entrance to the sexually-oriented business so that it may be easily read at any time.

(6) An applicant of the proposed establishment shall not be in violation of, or not in compliance with, any of the provisions of this zoning ordinance including any stipulations or conditions of approval of the Special Use Permit.

(7) An applicant shall not transfer a sexually-oriented entertainment permit to another person, corporation or entity, nor shall an applicant operate a sexually-oriented establishment under the authority of a permit any place other than the address designated in the application.

(Ord 213-11, §1, 9-27-11)

**Sec. 23-393. Application requirements.**

(a) In addition to §23-66 Special Use Permits of this ordinance the following shall be provided:

(1) An application for a Special Use Permit must be made on a form provided by the Community and Economic Development Department. The application must be accompanied by a site plan pursuant to §23-570, Site plan review.

(2) If a person who wishes to operate a sexually-oriented establishment is an individual, he/she must sign the application for a Special Use Permit as the applicant. If a person who wishes to operate a sexually-oriented establishment is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a Special Use Permit as applicant.

(3) An applicant shall provide information reasonably necessary for issuance of the permit or shall not falsely answer a question or request for information on the application form.

(4) The Special Use Permit fee required by this ordinance shall be paid at time of application.

(Ord 213-11, §1, 9-27-11)

**23-394. Enforcement.**

(a) In addition to this section, §23-69 Enforcement of this ordinance shall apply.

(b) Nothing in this subsection is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any City ordinance or statute of the State of Wisconsin regarding public nuisances, sexual conduct, lewdness or obscene or harmful matter in the exhibition or public display thereof.

(c) A person shall be deemed to have committed a violation of this ordinance if he/she operates a sexually-oriented establishment without a valid Special Use Permit issued by the City for the particular type of business.

(d) ***Public nuisance.*** Any violation of the standards set forth in subsection (b) above is declared to be a public nuisance pursuant to §12-30(19) of the Appleton Municipal Code.

(e) ***Inspection.***

(1) An applicant shall permit representatives of the City of Appleton Community and Economic Development Department, Police Department, the Fire Department, the Division of Inspections, or other City departments or agencies to inspect the premises of a sexually-oriented establishment for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(2) A person who operates a sexually-oriented business or his/her agent or employee commits a violation of this ordinance if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

(Ord 213-11, §1, 9-27-11)

**Secs. 23-394 – 23-419. Reserved.**

## ARTICLE XIII. WIRELESS TELECOMMUNICATIONS FACILITIES

### Sec. 23-420. Purpose.

In order to accommodate the communication needs of residents and businesses while protecting the public health, safety and general welfare of the community, these regulations are necessary in order to:

(a) Facilitate the provision of wireless telecommunication services to the residents and businesses of the City;

(b) Minimize adverse visual effects of towers through careful design and siting standards;

(c) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements;

(d) Maximize the use of existing towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community and encourage co-location; and,

(e) Encourage the location of towers in non-residential areas and minimize the total number of towers throughout the City.

### Sec. 23-421. Definitions.

As used in this section of the zoning ordinance, the following terms shall have the meanings indicated:

***Antenna*** means any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves, digital signals, radio frequencies, wireless telecommunications signals, including, but not limited to, directional antennas, such as panel(s), microwave and satellite dishes, and omni-directional antennas, such as whip antennas.

***Co-location*** means the location of multiple antennas of more than one commercial wireless communication service provider or governmental entity on a single tower or alternative tower structure.

***FAA*** means the Federal Aviation Administration.

***FCC*** means the Federal Communications Commission.

***Height*** means when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

***Personal communications service (PCS)*** means a provider of personal wireless service facilities as now defined in Section 704 of the Telecommunications Act of 1996, 47 U.S.C. par. 332, and as the same may be amended from time to time.

***Personal wireless facilities*** means transmitters, antenna structures and other types of installations used to provide personal wireless services.

***Pre-existing towers*** shall have the meaning set forth in §23- 422 of this chapter.

***Tower*** means any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes personal communication service towers, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.

***Tower site*** means the area encompassing a tower and all supporting equipment, structures, paved or graveled areas, fencing and other items used in connection with said tower.

***Wireless telecommunication services*** means licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

**Sec. 23-422. Special use permit requirements.**

(a) A telecommunication antenna system that requires construction of a new tower or co-location on an existing tower not previously granted a special use permit will require the petitioner to apply for a special use permit. Proposed telecommunication towers are only allowed in commercial and industrial zoning districts.

(b) Exceptions to a special use permit would apply to the following circumstances, subject to application for a building permit:

(1) Water towers or other municipally owned structures, provided a license or lease authorizing such antenna has been approved by the Common Council;

(2) Structures in the Central Business District zoning in excess of four (4) stories (seventy (70) plus feet);

(3) Pre-existing tower that was granted a special use permit prior to the effective date of this ordinance.

**Sec. 23-423. Building permit requirements.**

(a) A building permit shall be required prior to commencement of work on any antennas or supporting structures exceeding sixty (60) feet in height. Application for a building permit shall be made to the Inspections Supervisor by the owner or the owner's authorized representative. A building permit shall be issued by the administrator when all the following requirements are met. All plans, calculations, and specifications shall be dated. Plan submittal shall include the state plan approval application (SBD 118) or equivalent, plus the following information:

(1) Except as provided below, all plans, calculations and specifications shall be prepared, signed and sealed by an architect or engineer registered in Wisconsin. Plans, calculations and specifications shall show compliance with all state and local codes. *Exception*: Plans, calculations and specifications may be prepared by an architect or engineer registered outside the State of Wisconsin provided (1) the plans, calculations and specifications shall bear the signature and seal or stamp of a registered architect or engineer; and

(2) A certificate dated, signed and sealed by an architect or engineer registered in Wisconsin is attached to the plans, calculations and specifications. The certificate shall indicate the plans, calculations and specifications were prepared in a state other than Wisconsin by an architect or professional engineer registered in that state, describe the work performed by the Wisconsin registered architect or engineer, and include statements to the effect that plans and specifications have been reviewed and comply with all applicable local and state building codes, and the reviewing architect or engineer will be responsible for the supervision of construction. (2) When antennas and supporting towers are submitted to the state for examination, two (2) sets of plans bearing the state approval stamp and copies of all approval correspondence shall be included with submittals to the Inspections Supervisor.

(3) Plan submittal shall include an intermodulation study that provides technical evaluation of existing and proposed transmissions and indicates all potential interference problems. No new telecommunications service shall interfere with public safety telecommunications.

(4) Construction or installation of antennas or supporting structures exceeding sixty (60) feet in height shall be supervised by a Wisconsin registered architect or engineer in the manner called out in the Wisconsin Building Code ILHR 50.10. A compliance statement shall be provided by the supervising professional upon completion of the project.

(5) Plans must describe tower height and design, including a cross-section and evaluation. The plans shall also describe the number, height and mounting positions for co-location antennas.

(b) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of a tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

**Sec. 23-424. Tower/structure design requirements.**

All towers constructed after September 17, 1997 or wireless telecommunication antennas affixed to buildings shall comply with the following requirements:

(a) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities.

(b) Wireless telecommunication service towers shall be of a monopole design unless the City determines that an alternative design would better blend into the surrounding environment.

(c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(d) The placement of wireless telecommunication antennas on roofs or walls shall include submittal of a report prepared by a qualified and licensed professional engineer indicating the existing structure's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.

(e) Towers shall not be artificially lighted, unless required by the FAA or the City. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower.

(f) Towers shall be set back a distance equal to the height of the tower from any residential structure.

(g) Towers, guy wires and accessory facilities must satisfy the minimum zoning district setback requirements.

(h) Tower sites shall be enclosed by security fencing and shall be equipped with an appropriate anti-climbing device sufficient to deter the general public from obtaining access to the site.

(i) The following site plan review requirements shall govern landscaping surrounding towers:

(1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower site from adjacent property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the security fencing.

(2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.

(3) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.

(j) The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(k) All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment. Site plan review per §23-570, Site plan review and approval, shall be required for these types of buildings.

(l) All towers shall be shielded, filtered and grounded to meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the federal and State government with the authority to regulate towers and antennas so as to minimize the possibility of interference with locally received transmissions.

**Sec. 23-425. Co-location requirements.**

No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Inspections Supervisor that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence must be submitted to demonstrate that the telecommunications equipment cannot be accommodated on an existing or approved tower or building within a one (1) mile search radius (one-half (½) mile search radius for towers under one hundred twenty (120) feet in height, one-quarter (¼) mile search radius for towers under eighty (80) feet in height) of the proposed tower due to one or more of the following reasons:

(a) The planned equipment would exceed the structural capacity of the existing tower or building, as documented by a licensed professional engineer, and the existing tower cannot be reinforced, modified or replaced.

(b) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna. This interference would have to be documented by a licensed professional engineer. Documentation would have to show that the interference cannot be prevented at a reasonable cost.

(c) Existing towers and buildings within the search radius are not of sufficient height to function reasonably as documented by a licensed professional engineer.

(d) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

**Sec. 23-426. Accommodation of other uses (co-location).**

(a) Any proposed telecommunication tower and tower site shall be designed, structurally, electrically and in all respects to accommodate co-location of both the applicant's antenna(s) and comparable antenna(s), for at least two (2) additional users. Towers and tower sites shall be designed to allow for future rearrangement of antennas upon the tower, to accept antennas mounted at varying heights and to accommodate supporting buildings and equipment on the antenna site.

(b) The holder of a special use permit for a tower shall not make co-location on the tower and tower site for the additional users economically unfeasible. If additional user(s) demonstrate (through an independent arbitrator or other pertinent means) that the holder of a tower permit has made co-location on such tower and tower site economically unfeasible, then the tower permit shall become null and void.

**Sec. 23-427. Removal of abandoned antennas and towers.**

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the following shall apply:

(a) The owner of such antenna or tower or owner(s) of the property where the tower site is located shall remove the antenna and/or tower including all supporting equipment and building(s) within ninety (90) days of receipt of an abandonment notice from the City Inspection Division. If removal to the satisfaction of the Inspections Supervisor does not occur within the ninety (90) days, the City may remove and salvage the antenna or tower and all supporting equipment and building(s) at the property owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(b) The applicant for a permit under this ordinance shall submit a copy of a signed agreement between the property owner and owner of the tower, antenna(s) and supporting equipment and building(s) detailing requirements for abandonment and subsequent removal based on the provisions of (h)(1). The agreement shall also identify that the agreement shall be binding on future property owner(s) and future owner(s) of a tower, antenna and all supporting equipment and building(s).
(Ord 80-97, §1, 9-17-97)

**Secs. 23-428 – 23-499. Reserved.**

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## ARTICLE XIV. SIGNS*

### DIVISION 1. INTRODUCTORY INFORMATION

**Sec. 23-500. Purpose.**

The purpose of these sign regulations is to encourage the effective use of signs as a means of communication, to maintain and enhance the aesthetic environment of the City, to attract sources of economic development and growth, to promote pedestrian and vehicular safety, to protect property values by minimizing the adverse effects of signs upon public and private property, to provide a procedure for fair and consistent enforcement, and to implement the spirit of urban design goals and policies as identified in the Appleton VISION 20/20: Comprehensive Plan.

**Sec. 23-501. Applicability and Effect.**

A sign may be erected, placed, established, created, or maintained in the City only in conformance with the standards, procedures, exemptions and other requirements of this ordinance. More specifically, the sign ordinance shall:

(a) Establish a permit system that regulates the number, size, and type of signs in all zoning districts;

(b) Allow certain signs that are small, unobtrusive, and incidental to the principal use of each lot;

(c) Provide for temporary signs without commercial messages in limited circumstances in the public right-of-way;

(d) Prohibit all signs not expressly permitted by this ordinance;

(e) Identify enforcement provisions;

(f) Establish guidelines for design, construction, installation, and maintenance of signs; and

(g) Regulate the sign structure.

***Editor's Note:** Chapter 14 – Signs was repealed by Ord 9-00, published 1-22-00. New 'Sign Code' was created by Ord 10-00, published 1-22-00

**Secs. 23-502 – 23-503. Reserved.**

## DIVISION 2. DEFINITIONS

### Sec. 23-504. Definitions and interpretation.

Words and phrases used in this ordinance shall have the meanings set forth in this section. In addition, the definition section of the zoning ordinance may supplement the sign code. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this ordinance.

***Abandoned sign*** means a sign located on a lot that contains any land use discontinued for more than a twelve (12) month period except as provided in §23-506(c).

***Animated sign*** means any sign that utilizes flashing, scintillating, blinking or traveling lights, or change of lighting to show action or to create a special effect or scene. This does not include changeable copy signs.

***Area of sign*** means the area of the largest single sign face within a perimeter formed by the outside shape, including any frame that forms an integral part of the display. This would not include the necessary supports or uprights of the sign. If the sign consists of more than one (1) section or module, all areas are totaled. Any writing, representation, emblem, logo, symbol or other display that has no background or is irregular in shape shall be computed based on squares or rectangles which enclose the extreme outer limits of the advertising message, announcement or decoration.

***Awning.*** A rigid-framed, roof-like structure attached to a wall running parallel to the building face that includes a surface of fire-resistant material such as vinyl or canvas.

***Banner.*** Any sign of lightweight fabric or similar material mounted by the edges to a pole or building. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

***Beacon.*** Any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same lot as the light source; also, any light with one (1) or more beams that rotate or move.

***Billboard*** means any wall-mounted or ground sign whose primary purpose is advertising a product or service located off the premises. Billboard includes poster panels and painted bulletins.

***Building marker.*** Any sign indicating a building's name, date, or any incidental information about its construction that is engraved into a masonry surface or made of bronze or other permanent material.

***Changeable copy sign.*** A permanent sign, whether electronic or manual, where copy changes. This does not include special effects, scenes or pictures.

***Copy*** means the wording on a sign surface.

***Department*** means the City of Appleton Inspections Division.

***Directional sign.*** An on-premises sign providing general information and has a purpose secondary to the use of the lot on which it is located, such as "no parking", "entrance", "exit", "loading zone", "telephone", and other similar directives.

***Director*** means the City of Appleton Inspections Supervisor or designee.

***Electric sign*** means any sign containing electrical wiring which is attached or intended to be attached to an electrical energy source.

***Electric sign contractor*** means a person who, in the normal course of business, frequently installs and maintains electric signs.

***Event*** means an occurrence generally regarded and acceptable as important, newsworthy and of public service.

***Flag.*** A piece of fabric having distinctive colors and patterns used as a symbol of a government, political subdivision or other entity.

***Freeway*** means U.S. Highway 41 and State Highway 441.

***Freeway-oriented on-premises sign*** means any on premises sign whose property abuts a freeway and primarily identifies a business or company to freeway users.

***Frontage*** means that boundary of a lot that abuts a dedicated public street. The public right-of-way may include frontage roads.

***Ghost sign.*** A hand-painted sign that remains from an earlier time or advertises the use of a building wall on or before January 22, 2000, and is still present on the wall, indicating a previous use of the building, or advertising a product or activities of the community.

***Ground sign.*** Any sign supported by structures or supports placed on or anchored in the ground and independent from any building or other structure.

***Height of sign*** means the vertical distance measured from the normal grade to the highest point of the sign.

***Historic markers.*** Signs identifying a historical structure, site or district pursuant to §23-670 of this code.

***Home occupation sign.*** A sign advertising a legally permitted home occupation (§23-45).

***Lot*** means a tract of land, designated by metes and bounds, registered land survey or plat, and separated from other tracts of land by legal description approved by the City and recorded in the office of the county Register of Deeds.

***Marquee.*** Any permanent, roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

***Monument signs*** means a ground sign with the bottom of the sign a maximum of twelve (12) inches from normal grade.

***Multi-tenant*** means a building with more than one (1) tenant that utilizes wall, projecting, canopy or ground signage.

***Mural*** means a wall sign that is a work of graphic art painted or applied to building walls.

***Nonconforming sign***. Any sign that does not conform to the requirements of this section.

***Normal grade*** shall be construed to be the newly established grade after construction, exclusive of any filling, berming, molding or excavating solely for the purpose of locating the sign.

***Off-premises sign.*** A sign identifying or advertising persons, entities, activities, business goods, products, facilities or services not located on the lot where the sign is located or directing persons to a different location from where the sign is located.

***On-premises sign.*** Any sign identifying or advertising persons, entities, activities, business goods, products, facilities or services located on the lot where the sign is installed and maintained.

***Painted wall sign*** means a wall sign or mural, hand-painted or drawn directly on the exterior wall surface of a building.

***Party wall*** means a wall without openings located on a lot line between adjacent buildings.

***Person.*** Any individual, association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.

***Plot plan*** means a scaled (engineer's) drawing of a parcel that depicts all elements on and surrounding the parcel.

***Portable sign*** means a sign lit or unlit designed to be transported, including, but not limited to, signs designed to be transported by means of wheels.

***Principal building.*** The building in which is conducted the principal use of the lot on which it is located. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clear accessory uses shall not be considered principal buildings.

***Projecting sign*** means a sign, normally double-faced, which is attached to a structure or building perpendicular to the wall and extending more than six (6) inches. The area of projecting signs is calculated on one (1) face only.

***Residential sign*** means a sign located in a district zoned for residential uses with no commercial message except advertising for goods or services legally offered on the premises where the sign is located, provided the service at the location conforms with all requirements of the zoning ordinance.

***Right-of-way*** is all public property used or intended for use as a travelway and the public property that is adjacent to the travelway.

***Roof sign*** means a sign erected upon, against or above a roof and extending above the highest point of the roof. If the sign does not extend above the highest point of the roof and is single-faced, it is a wall sign.

***Sandwich sign*** means a hinged or unhinged A-frame sign that is generally temporary in nature.

***Setback*** means the required distance a sign must be located from a lot line, easement, right-of-way line, adjacent building or other feature as indicated in this section.

***Sign.*** Any device, fixture, placard, or structure that uses any writing, representation, emblem, logo, symbol or other display illuminated or non-illuminated to advertise, announce the purpose of, or identify the purpose of a person or entity to attract attention, or to communicate information of any kind to the public, visible from any public place. Streamers, pennants, balloons and inflatable figures are not considered signs. For the purpose of removal, signs shall also include all sign structures as well as the sign itself.

***Sign contractor*** means any person engaged in whole or in part in the erection or maintenance of signs, excluding the business that the sign advertises.

***Sign structure*** means any structure or material that supports, has supported, or is capable of supporting or helping maintain a sign in a stationary position, including decorative covers.

***Street*** means a dedicated right-of-way affording access by pedestrians or vehicles to abutting property. Egress and ingress easements shall not be considered streets or roads.

***Street frontage.*** The distance for which a lot line of a lot adjoins a street, from one (1) lot line intersecting said street to the furthest distant lot line intersecting the same street. Corner or double frontage lots will have more than one (1) street frontage.

***Suspended sign.*** A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

***Swinging sign*** means a sign installed on an arm, mast, or spar that, in addition, is not permanently fastened to an adjacent wall or upright pole.

***Temporary sign*** means a sandwich board and other similar freestanding sign used for a limited time and not permanently mounted.

***Wall area*** means the vertical exterior wall surface of a building, not including the area of a party wall, consisting of the solid portion that forms the sides of the building envelope, including walls, doors and window area, that is not the roof or floor.

***Wall sign.*** Any sign attached parallel to, and within six (6) inches of, a wall or erected and confined within the limits of an outside wall of any building. The sign is supported by such building.

***Window sign*** means a permanent or temporary sign that is placed inside a window and is visible from the exterior. A window sign does not supersede the transparent purpose of the window.
(Ord 2-15, §1, 1-27-15; Ord 34-15, §1, 3-24-15)

## DIVISION 3. GENERAL PROVISIONS

### Sec. 23-505. Prohibited signs.

All signs not expressly permitted or exempt under this article are prohibited in any location in the City. Prohibited signs include, but are not limited to:

(a) Animated signs.

(b) Beacon.

(c) Billboards.

(d) Off-premises signs.

(e) Roof signs.

(f) A sign or advertising device attached to or painted onto a parked vehicle or trailer and being used as an on-premises or off-premises sign.

(g) Signs, handbills, posters, notices or similar attention gathering devices posted or affixed on traffic control boxes, traffic signs, utility poles, traffic control support structures or otherwise in the public right-of-way.

(h) Signs marked, tacked or otherwise affixed to trees or other vegetation.

(i) Signs containing statements, words, or pictures of an obscene or pornographic nature.

(j) Signs which purport to be, or are an imitation of, or resemble an official traffic sign or signal, or which bear the words “stop”, “caution”, “warning”, or similar words and/or colors normally associated with official signs.

(k) Swinging signs.

(l) Umbrellas with advertising copy.
(Ord 3-15, §1, 1-27-15)

### Sec. 23-506. Legal, nonconforming signs.

(a) Legal, nonconforming signs shall be regulated under §23-42 of the zoning ordinance unless otherwise stipulated in this article. A sign will become a legal, nonconforming sign in the following instances:

(1) Any sign lawfully established prior to the effective date of this section;

(2) Any sign which as a result of subsequent amendments hereto becomes nonconforming; and

(3) Any sign that was lawfully established prior to the annexation of the property on which the sign is located.

(b) Legal, nonconforming signs may continue to exist provided there is no alteration or reconstruction. Alteration or reconstruction that is in compliance with the provisions of this code shall bring the sign into conformity. For the purpose of this section only, the term “altered or reconstructed” shall not include the following:

(1) Normal maintenance.

(2) Changing of advertising message.

(3) Changing of ornamental features.

(4) Changing of landscaping at the sign's base.

(5) Standard electrical maintenance.

(c) In order to lawfully maintain and continue use of a legal, nonconforming sign, the following criteria and conditions apply:

(1) The sign must have been actually in existence at the time this section became effective, except where a permit for the construction of a sign was granted prior to the effective date of this ordinance and the sign owner acted in good faith and expended sums in reliance thereon.

(2) The sign may be sold, leased or otherwise transferred without affecting its status, but its location may not be changed.

(3) A legal, nonconforming sign removed as a result of a right-of-way taking or for any other reason may be relocated only if the sign is made to conform to this section.

(4) A conforming sign does not become nonconforming due to City acquisition of right-of-way according to §23-42(f).

(5) If the owner of a sign desires to repair, alter or reconstruct a sign that exceeds fifty percent (50%) of the replacement value of the sign, the sign must be brought into conformance with the requirements of this section. The exception to this provision is a billboard sign, where elimination is the only option.

(d) The exception to this section is nonconforming billboards, which shall meet the following conditions:

(1) Compliance with §23-547, Maintenance required; abandoned signs, must be achieved. If the total repair of a billboard exceeds fifty percent (50%) of its assessed value during its remaining life, it must be removed.

(2) Billboards shall be promptly removed if they become deteriorated or dilapidated.

(3) No billboard shall be enlarged, extended, reconstructed, or structurally altered.

(4) Any billboard not in use for a period of ninety (90) days shall be removed according to §23-547 of this Code. This includes, but is not limited to, advertising a discontinued product, advertising a discontinued use, and/or a billboard that is vacant except for owner information.

**Sec. 23-507. Signs in the right-of-way.**

(a) No signs shall be placed upon any street right-of-way except for the following:

(1) Permanent signs including public signs erected by, or on behalf of, a governmental unit to post legal notices, identify public property, and direct or regulate pedestrian or vehicular traffic.

(2) Temporary construction or street repair signs.

(3) Bus stop signs erected by a public transit company.

(4) Informational signs of a public utility regarding its poles, lines, pipes or facilities.

(5) Banners, signs, or decorations as permitted by the Common Council.

**Sec. 23-508. Signs not requiring a permit.**

(a) Signs that do not require a sign permit shall be excluded for the purposes of calculating the total number and total size of signs allowed on a lot.

(b) Signs that do not require a sign permit shall be subject to other applicable provisions of this article including, but not limited to, size, setback and clearance unless otherwise stated.

(c) The following are signs that do not require a sign permit:

(1) ***Banners.*** Time limit of one hundred twenty (120) consecutive days per banner applies. See §23-562 for banners in the public right-of-way.

(2) ***Building marker.*** Maximum size for a building marker is four (4) square feet.

(3) ***Building number.*** Building numbers must meet the requirements in §4-3 of the Municipal Code and Building Addressing Policy of the City of Appleton. All building numbers shall be mounted flush to the structure. Building numbers may or may not be illuminated, subject to departmental policies. If part of the design elements of a subdivision, illuminated house numbers may be integrated into a mailbox structure in the public right-of-way. Maximum size for officially assigned address information is two (2) square feet.

(4) ***Construction signs.*** One (1) construction sign per street frontage is allowed. This sign shall be placed on the lot where work is under construction and shall identify persons or companies involved in the design, construction, demolition, financing or project development. Such signs shall not be erected prior to the beginning of work for which a valid building or demolition permit has been issued, and shall be removed within ten (10) days of completion of the work or the expiration of the permit, whichever is sooner. Construction signs for single-family residences shall not exceed sixteen (16) square feet. Construction signs for commercial, industrial, multi-family, or planned development uses on parcels of less than one hundred thousand (100,000) square feet; construction signs shall not exceed ninety-six (96) square feet on parcels greater than one hundred thousand (100,000) square feet.

(5) ***Directional signs.*** Directional signs may not exceed six (6) square feet. No more than one (1) directional sign is permitted per side of driveway. All setbacks and clearances must be followed.

(6) ***Events signs.*** For one- (1-) day events and special events which require a City Special Event License.

(7) ***Flags.***

(8) ***Governmental signs.*** Signs erected by, or on behalf of, a governmental unit, including legal notices, traffic signs, or other similar regulatory devices, directional signs, warnings at railroad crossings, and other instructional or regulatory signs pertaining to health hazards, parking, swimming, dumping, and such emergency or non-advertising signs as may be approved by the Traffic Engineer for safety purposes or other signs approved by the Common Council.

(9) ***Historical markers.*** Commemorative plaques, memorial tablets, or emblems of official historical bodies not exceeding four (4) square feet placed flat against a building, monument stone or other permanent surface.

(10) ***Holiday decorations.*** Temporary displays of a primarily decorative nature, clearly incidental to and customarily associated with traditionally accepted civic, patriotic or religious holidays.

(11) ***Home occupation signs.*** One (1) sign associated with a home occupation as defined in the zoning ordinance, provided such signs are non-illuminated wall signs not exceeding two (2) square feet in area and mounted parallel to the wall.

(12) ***Institutional identity signs.*** Institutions such as a university campus may install and maintain an identity sign designating only the name and address of the institution or campus, not exceeding sixty (60) square feet. This sign must be located greater than ten (10) feet from the right-of-way line.

(13) ***Interior signs.*** Signs that are located on the interior of any building.

(14) ***Model home signs.*** Signs not exceeding six (6) square feet identifying a non-occupied dwelling unit used as a demonstrator for selling or renting other dwelling units in the same complex.

(15) ***Neighborhood and park identification signs.*** In any zone, a sign, masonry wall, landscaping or other similar material and feature may be combined to form a display for neighborhood or tract identification at all entrances, provided the legend of such sign or display shall consist only of the neighborhood or tract name. Neighborhood and park identification signs shall be limited to ground signs not exceeding eight (8) feet in height or forty-eight (48) square feet per sign face, and meet all other design standards in Division 4.

(16) ***Political campaign signs.*** Signs promoting candidates for public office or issues on election ballots, not exceeding sixteen (16) square feet per lot, posted on private property. The Director and/or the Police Chief, or their designee, are authorized to remove any signs in violation of this section.

(17) ***Real estate signs.*** One (1) real estate sign per street frontage of a lot, advertising the sale or lease of that lot or premises. Such signs shall not be located in the public right-of-way, nor be directly illuminated, nor exceed eight (8) square feet for residential districts, thirty-two (32) square feet for commercial districts, or sixty-four (64) square feet for industrial districts. Real estate signs shall be removed within fifteen (15) days after the sale, rental, or lease has been accomplished.

(18) ***Residential signs.*** Signs customarily associated with residential use, related to a permitted use of the premises, and not exceeding two (2) square feet. Such signs can include property identification names, numbers or names of occupants, signs posted on private property relating to private parking or warning the public against trespass or danger of animals, neighborhood crime watch signs, or signs advocating any political, religious, or ideological cause.

(19) ***Temporary public events signs.*** Temporary signs not exceeding thirty-two (32) square feet pertaining to campaigns or events of civic, philanthropic, educational, or religious organizations, provided such signs are posted not more than thirty (30) days before an event and removed within two (2) days after the event.

(20) ***Window signs*** shall not exceed fifty percent (50%) of the gross window area of any given wall or ten percent (10%) of the glass on any door. The square footage of permanent window signs shall be included in the maximum allowable square footage of wall sign (§23-523(c)). Signs shall not be placed on doors or windows needed to be clear for public safety.

(21) ***Vehicle signs used in normal course of business.*** Truck, bus, trailer, or other vehicle signs, while the vehicle is operating in the normal course of business, but is not parked in such a way that it acts as an advertising sign on a parking lot, driveway or street according to §23-505.

**Secs. 23-509 – 23-521. Reserved.**

## DIVISION 4. DESIGN STANDARDS

### Sec. 23-522. Number of signs.

Sign limitations shall be based on street frontage and wall area. The total number and area of signs shall not exceed the maximum parameters contained herein and as shown on Table 14A:

(a) ***One (1) ground sign.*** One (1) ground sign is permitted for each lot unless specified elsewhere in this code.

(b) ***Two (2) ground signs.*** Two (2) ground signs may be permitted if a parcel has a second street frontage subject to the following regulations:

(1) For corner lots, each street frontage must be at least two hundred (200) feet before two (2) signs are allowed;

(2) Double frontage lots must have at least three hundred (300) feet of lot depth with a driveway at the rear of the property.

(3) Maximum size of the two (2) signs are one hundred eighteen (118) square feet for the primary sign and thirty-two (32) square feet for the secondary sign.

(4) In no case will two (2) ground signs be allowed on the same street frontage for the same business or parcel.

(c) ***Temporary signs.*** One (1) temporary sign per street frontage is allowed in the building setback. There is no limit to the number of temporary signs on the remainder of the property.

### Sec. 23-523. Sign face calculation.

(a) ***Ground signs.*** The maximum area of a ground sign shall not exceed one hundred fifty (150) square feet per sign face.

(b) ***Multiple-faced signage.*** The surface area of a sign shall be calculated only on the basis of adding together the area of the sign face(s) that can be read by one (1) viewer at a time. Where two (2) identical sign faces are both faces cannot be read by any one (1) viewer simultaneously, only one (1) of the faces shall be calculated for purposes of determining sign surface area.

(c) ***Wall sign calculation.*** For purposes of maximum area for wall signs, this calculation shall include awning, marquee, canopy, permanent window and projecting signs.

(1) In the P-I, C-O, C-1, C-2, and CBD zoning districts, the maximum area of wall signage shall be calculated as follows:

a. For each building wall, thirty-five percent (35%) of the building wall area or three hundred fifty (350) square feet whichever is less.

(2) In the M-1 and M-2 zoning districts, the maximum area of wall signage shall be calculated as ten percent (10%) of each building wall.

(d) ***Changeable copy signs.*** The maximum area of changeable copy cannot exceed forty-eight (48) square feet.

(e) ***Sandwich signs and similar temporary signs.*** Sandwich sign standards include a maximum three and one-half (3½) foot height, two and one-half (2½) foot width, and six (6) inch high maximum leg supports.

(f) ***Portable signs.*** The maximum size is four (4) feet by eight (8) feet.
(Ord 4-15, §1, 1-27-15)

**Sec. 23-524. Ground sign height.**

(a) ***Total height.*** The height of a ground sign shall not exceed twenty-eight (28) feet in height.

(b) ***Computation of height.*** Sign height shall be computed as the distance from the base of the sign or sign structure at normal grade to the top of the highest attached component of the sign. Where the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a street or the grade of the land at the principal entrance to the principal building, whichever is lower.

**Sec. 23-525. Setback and clearance.**

(a) ***Right-of-way.*** The closest point of a sign shall not encroach into the public right-of-way, including public sidewalks and terraces unless a street occupancy permit is obtained. Application for this permit must be obtained from the Public Works Department, reviewed by the Municipal Services Committee and approved by Common Council.

(b) ***Side lot line.*** A sign shall be located no closer than five (5) feet from the side lot line.

(c) ***Within fifteen (15) feet of street.*** A ground sign, any part of which is closer than fifteen (15) feet to the right-of-way, shall have a minimum vertical distance of ten (10) feet between the bottom of the sign and the grade at the right-of-way line or shall not be more than three (3) feet in height above the grade at the right-of-way line.

(d) ***Intersections/driveways.*** Any ground or portable, sign within twenty-five (25) feet of an intersection or fifteen (15) feet of a driveway shall maintain a minimum vertical distance between the bottom of the sign and the grade at the right-of-way line of ten (10) feet or shall be not more than three (3) feet in height above grade.

(e) ***Projecting signs.*** Projecting signs shall maintain a minimum vertical distance between the bottom of the sign and the normal grade of eight (8) feet. The maximum height between the top of the sign and the normal grade shall not exceed sixteen (16) feet.

(f) ***Parking area/driveway clearance.*** Any sign located over a parking area or driveway shall have a minimum vertical clearance of fourteen (14) feet.

(g) ***Electrical lines.*** All signs shall be so located so as to avoid any contact with electrical and communication lines.

**Sec. 23-526. Portable sign display limits.**

A portable sign may be displayed for a total of one hundred twenty (120) days per year with a minimum of thirty (30) consecutive day blocks. The entire thirty (30) consecutive day block will count towards the one hundred twenty (120) day total even if all thirty (30) days are not used.

**Sec. 23-527. Awning, canopy and marquee signs.**

For this section, awning includes canopies and marquees unless otherwise specified.

(a) The sign message can be no larger than the wall sign area restrictions in §23-524.

(b) The sign message displayed on the principal face and/or valance (fringe) of the awning shall not exceed forty percent (40%) of the awning surface.

(c) An awning with a sign message shall meet the following conditions:

(1) An awning shall not extend more than five (5) feet from the face of a building.

(2) A canopy support structure shall not be closer than two (2) feet from the street curb line.

(3) Minimum clearance for an awning having a sign shall be seven feet six (7’6”) inches from the lowest edge of the awning to the closest point of a sidewalk.

(4) The valance shall not exceed nine (9) inches, and letters on the valance shall not exceed six (6) inches in height.

(5) Any awning that extends into public right-of-way (including a public sidewalk) shall be required to obtain a street occupancy permit.

(6) If illuminated, a light source shall meet all national and local electrical codes.

**Sec. 23-528. Sign lighting.**

Signage may be internally lighted or may have external illumination mounted on the sign, building, or ground. However, no external light source shall be positioned as to interfere or be seen by vehicular traffic or adjacent residential uses.

**Sec. 23-529. Design standard exceptions.**

(a) ***Hospital exceptions.*** In a C-2 commercial district, the following design standard exceptions for PD planned development zoning for hospitals will apply:

(1) A ground, medical campus identification sign shall be allowed for every five hundred (500) feet of frontage subject to size, height and setback restrictions in accordance with Division 4. If located by an entrance, an identification sign can be combined with a site information sign.

(2) Emergency entrance signage may be included in the medical campus identification or site information signage to give clear direction to the emergency room.

(3) Each entrance to the hospital campus shall be allowed a ground, site information sign to identify parking, emergency, hospital, and clinic entrances. Site information signs shall be limited to seventy (70) square feet and shall meet all height and setback restrictions in accordance with Division 4.

(4) At each entrance door to the hospital or clinic, a wall sign will be allowed not to exceed forty (40) square feet to identify the function beyond the door.

(5) All hospital related signs may be lighted for nighttime identification.

(6) A hospital may request off-premises signage attached to City street signs for directional purposes. These signs are subject to City approval and installed by the City.

(b) ***Central business district (CBD) exceptions.*** Permitted signs in the CBD central business district are the same as in the C-2 District, with the following conditions and exceptions:

(1) Signs on pedestrian skywalks are limited to businesses that have long-term leases to maintain the skywalks. The area of all skywalk signs per side may be a maximum of twenty percent (20%) of the skywalk face.

(2) Parking ramps, library, children's museum, post office, YMCA, hotels, City Center Plaza, and other major landmarks may have off-premises signage attached to existing street signage and light poles subject to review and approval by the City.

(c) ***41 and 441 freeway exceptions.*** The following ground sign design standard exceptions for C-2, M-1, and M-2 zoned land will apply to freeway-oriented, on-premises signs.

(1) A ground sign may exceed twenty-eight (28) feet in height by two (2) feet for each additional foot the sign is set back from a minimum of ten (10) feet from the freeway right-of-way. No ground sign shall exceed sixty (60) feet in height above the abutting freeway's centerline grade.

(2) A ground sign may exceed one hundred fifty (150) square feet in area by ten (10) square feet for each additional foot the sign is set back from a minimum of ten (10) feet from the freeway right of-way. No ground sign shall exceed two hundred (200) square feet in area per sign face.

(3) If a single parcel exceeds nine (9) acres, a second ground sign not exceeding twenty-eight (28) feet in height and one hundred fifty (150) square feet in size shall be allowed at the parking lot entrance on the access street.

(d) ***Places of worship and nursing home exceptions.*** Places of worship and nursing homes will be allowed one (1) ground sign not to exceed sixteen (16) feet in height and forty-eight (48) square feet per sign face for each street frontage as calculated for multiple-faced signage §23-524(b). One (1) wall sign will also be allowed per street frontage subject to design standards in accordance with Division 4.

(e) ***Educational institution signs.*** An educational institution shall be allowed one (1) wall sign per street frontage. A substitute for the one (1) wall sign may be a reader board, attached to the face of an educational institution building, not to exceed forty-eight (48) square feet, for the purpose of conveying information related to public events held on the premises. Educational institution sites shall also be allowed one (1) ground sign as calculated for multiple-faced signage §23-523(b) (or reader board if none exists as a wall sign) set back at least twenty (20) feet from the public right-of-way. The ground sign shall not exceed fifteen (15) feet in height and shall not exceed forty-eight (48) square feet per face.

(f) ***Automobile RV, truck, cycle, boat sales and dealerships.*** Dealerships selling new vehicles shall be allowed one (1) ground sign for each fifty thousand (50,000) square feet of hard-surfaced, outdoor display.

(g) ***Real estate marketing sign.*** One (1) sign per street frontage, eighty (80) square feet maximum, is allowed for the purpose of marketing a new subdivision, apartment, condominium, or planned development. Such permit will be issued for one (1) year and may be renewed for one (1) additional year.

(h) ***Ghost Sign.*** Ghost signs that existed on a building wall prior to January 22, 2000, as on file with the Inspections Division, still present on the wall, are exempt from these requirements and deemed conforming. Ghost signs may be maintained, restored and repainted but no size alterations, new information or images may be added to the existing sign. Prior to a permit being issued for restoration of a ghost sign, documentation of the sign's existence shall be provided to the Inspections Supervisor. This may include photographs or permits originally issued for the sign.
(Ord 5-15, §1, 1-27-15)

**Secs. 23-530 – 23-539. Reserved.**

## DIVISION 5. ADMINISTRATIVE PROCEDURES

### Sec. 23-540. Sign permit.

(a) ***Permit required.*** A permit from the Director shall be required for any person to erect, place, replace, move, establish, paint, construct, install, convert, substantially alter, rebuild, enlarge, remodel, relocate, or illuminate any on-premises or off-premises sign upon private property, unless exempted under §23-508. Repainting, routinely maintaining, or changing the message on a sign will not be considered a substantial alteration and will not require a permit.

(b) ***Permits for portable and temporary signs.*** A permit for portable and temporary signs may include all of the subject signs on one (1) permit. This permit must be obtained each calendar year and is available by U.S. Mail.

(c) ***Permit fee.*** The fee for sign permits shall be established by the Common Council and on file in the Office of the City Clerk. Permit fees may increase to three (3) times the amount if a permit is applied for after the work is started.

(d) ***Permit application.*** Before construction of any sign requiring a permit, an application must be filed with the Director. Applications for a sign permit shall include a set of mandatory submittals as listed in this section. In addition, optional submittals may be required by the Director if deemed necessary due to the character of the particular proposal under consideration. Applications will not be processed until all required submittals have been provided to the Director. All applications shall be submitted upon a fully completed application form and shall be accompanied by payment of the applicable fee to defray the cost of reviewing and processing the application.

(e) ***Mandatory submittals for a sign permit.***

(1) Every applicant for a sign permit shall submit an application form as prescribed by the Director with supplementary attachments on 8-1/2" x 11" paper, a depiction of the proposed sign, and a plot plan.

(2) The application form shall be fully completed and contain the signature of the applicant.

(3) Electrical signs are required to be listed. On the sign permit, state if the sign is to be electrical and listed.

(4) The depiction showing the elevation of the proposed sign(s) needs to contain the following information:

a. Maximum dimensions of the sign(s) including dimensions of the supports, total height, and normal grade to bottom of sign.

b. The materials of which the sign's structural supports and all other elements are constructed.

c. Structural supports or visible methods of attaching the sign with dimensions to include the total height of the sign.

d. If required by the Director, calculations showing the structure and design meet the requirements of this section for wind pressure load and other information as the Director may require to show full compliance with this and all other applicable ordinances or regulations of the City.

e. The Director may require plans, specifications and calculations be signed and sealed by a Wisconsin registered architect or engineer.

(5) A plot plan, on 8-1/2" x 11" paper, drawn to scale, showing the location and dimensions of the sign being applied for, along with the sign's relation to lot lines, streets (with identified names), any existing signs, and structures on the premises.

(Ord 86-06, §1, 7-11-06)

### Sec. 23-541. Denial of sign permit.

If a sign permit is denied, the applicant can, within ten (10) days, request in writing the reasons for denial. The Director shall then prepare a brief written statement of the reasons for denial.

**Sec. 23-542. Variation procedures.**

(a) ***Appeals.*** Any aggrieved person adversely affected by the denial of a permit by the Director may appeal such denial to the Board of Appeals. The appeal must be submitted in writing ten (10) calendar days after the receipt of the decision.

(b) ***Variances.*** Sign code variances shall follow §23-67 of the zoning ordinance with the addition of the following review criteria:

(1) The variance will not be contrary to the spirit and purpose of this article;

(2) Where owing to special conditions, a literal enforcement of this would result in undue hardship; and

(3) Issuance of a variance will assure substantial justice due to circumstances uniquely related to the individual property.

(c) ***Minor variation.*** A minor variation to the sign code is a request:

(1) To increase the allowable area and height requirements for signage and/or decrease the setback requirements for signage by a maximum of twenty percent (20%);

(2) To divide the maximum square footage of signage;

(3) To vary the size and/or location of a monument sign by more than twenty percent (20%). Minor variations will be approved, approved with conditions, or denied by the Community and Economic Development Director. A Variation Application must be submitted. A complete submittal will be processed in fourteen (14) calendar days.

(4) No minor variation will be granted by the Community and Economic Development Director unless the Community and Economic Development Director finds that:

a. The signage as shown is compatible with the neighborhood and the neighboring signage;

b. The situation is unique or presents unique and beneficial solutions to signage for the parcel and/or the neighborhood;

c. The variation will provide a demonstrable benefit to the community;

d. There is a public benefit in enhancing the tax base by improvements on the parcel, and/or any beneficial actions, plans, or intent of the master signage plan which are clearly beyond the minimum requirements of this chapter shall be specifically listed as evidence of justified variations;

e. The signage will not impair public health, safety, comfort, morals, appearance or welfare of the inhabitants of the City.

(d) ***PD zoning.*** The exception to (a) and (b) above occurs when a property has a PD, planned development, overlay zoning. Planned development parcels must apply for a Planned Development Amendment according to §23-151 of this ordinance.

(e) ***Procedure.*** Any application for a variance taken pursuant to this section shall be in conformity with the procedures established by §23-67 of the zoning ordinance and shall provide the following information:

(1) An application signed by the owner and a fee as established by the Common Council and on file in the Office of the City Clerk;

(2) Information as required for a sign permit, see §23-540;

(3) Location of building(s), parking lots, driveways and landscaped areas in the project;

(4) Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of ground signs allowed on the parcels included in the plan under this article;

(5) An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not, including directional signs.

(Ord 121-05, §1, 10-25-05; Ord 87-06, §1, 7-11-06)

**Sec. 23-543. Required equipment.**

All signs shall be installed and maintained in a professional manner, using equipment that is adequate and safe for the task. This section recognizes there is great peril to the public safety by improper performance of sign contractors through use of inadequate equipment. Therefore, the Director may deny a sign permit if the sign contractor does not have or does not arrange for use of adequate equipment. The Director may also cite the sign contractor for a violation of this section if the contractor fails to use proper equipment in the installation and/or maintenance of signs.

**Sec. 23-544. Indemnification of the city for sign installation and maintenance.**

All persons engaged in the business of installing or maintaining signs involving the erection, alteration, relocation, or maintenance of a sign within or near public right-of-way or public property shall agree to hold harmless and indemnify the City or its officers, agents, and employees from any and all claims.

**Sec. 23-545. Installation and maintenance of electric signs.**

This section recognizes electric signs are controlled under the special equipment provisions of Article 600 of the National Electrical Code and Chapter 4 of this Municipal Code. In addition, electric sign contractors have developed a specialized trade of high voltage discharge electric sign installation and maintenance to properly install and service high voltage electric signs. Electric sign contractors and their employees are authorized to perform the following specific tasks:

(a) To install exterior electric signs, ballasts, or high voltage transformers to sockets or outline lighting tubes, but not to connect the signs to primary branch circuits;

(b) To install interior electric signs, but not to connect the signs to the primary branch circuit; and

(c) To maintain and replace any electric component within the sign, on its surface or between the sign and building for exterior signs only. This section prohibits the electric sign contractor or its employees from performing work on electric signs in contradiction to the National Electrical Code or Chapter 4 of this Municipal Code.

**Sec. 23-546. Construction specifications.**

(a) All signs shall comply with the provisions of Chapter 4 of this Municipal Code, the provisions of the National Electrical Code as amended, and the additional construction standards set forth in this section where applicable.

(b) All ground structures shall be self-supporting and permanently attached to sufficient foundations based on the height and size of sign.

(c) Electric service to ground signs shall be concealed.

(d) All signs, except those attached flat against the wall of the building, shall be constructed to withstand wind loads of thirty (30) pounds per square foot on the largest face of the sign and structure.

(e) No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs shall be anchored to prevent any lateral movement that could cause wear on supporting members or connections.

**Sec. 23-547. Maintenance required; abandoned signs.**

(a) ***Maintenance and repair.*** Every sign shall be maintained in a safe and aesthetically beneficial good structural condition at all times, including replacement of defective parts, painting (except when a weathered or natural surface is intended), repainting, cleaning, and other acts required for the maintenance of the sign.

(b) ***Discontinued or abandoned signs.*** If any sign is discontinued or abandoned for a period of at least six (6) consecutive months in a twelve (12) month period, such sign shall be considered a public nuisance affecting or endangering surrounding property values and will be considered to be detrimental to the public health, safety and general welfare of the community. All discontinued or abandoned signs and sign messages shall be removed by the owner or lessee of the premises when the business they advertised is no longer conducted there or the sign message contains obsolete advertising matter, except if any period of involuntary discontinuance occurs during the temporary closing of a street for road repair. If the owner or lessee fails to remove the sign, the Director shall give the owner sixty (60) days written notice to remove the sign. The Director may take any appropriate legal action necessary to obtain compliance. Removal of the sign in question includes the removal of the sign structure and sign cabinet.

**Sec. 23-548. Payment for sign removal.**

When it becomes necessary for the Director to remove or cause to be removed or taken down, a defective, unsafe, or dangerous sign, the cost thereof shall be placed on the tax roll as a special charge and become a lien against the benefited property, unless paid sooner.

**Sec. 23-549. Penalty.**

Any person who shall violate or cause to be violated any provisions of this section shall, upon conviction thereof, forfeit not less than fifty ($50) dollars nor more than five hundred ($500) dollars, together with the costs of prosecution. Each day a violation exists, or continues, shall constitute a separate offense.

**Secs. 23-550 – 23-559. Reserved.**

## DIVISION 6. SIGNS ALLOWED BY ZONING DISTRICTS

### Sec. 23-560. Reserved.

(Ord 121-05, §1, 10-25-05; Ord 88-06, §1, 7-11-06)

### Sec. 23-561. Zoning district restrictions.

(a) ***Residential districts.*** Signs not requiring a permit listed in §23-508 are signs permitted in the AG, R-1A, R-1B, R-2 and R-3 residential zoning districts. For design standard exceptions, see §23-529.

(b) ***Commercial and industrial districts.*** Signs permitted in the C-O commercial office, C-2 general commercial, M-1 industrial park and M-2 general industrial zoning districts are signs not requiring a permit listed in §23-508, ground, projecting, wall, window, marquee, awning and canopy signs. For design standard exceptions, see §23-529.

(c) ***Central business district.*** Signs permitted in the CBD central business district are the same as in paragraph (b). For design standard exceptions, see §23-529.

(d) ***Planned development districts.*** Signs in a PD overlay district will be based on the permitted signage within the underlying zoning district.
(Ord 89-06, §1, 7-11-06)

### Sec. 23-562. Regulations for banners in the right-of-way.

(a) Requests for installation of banners must be made either by a recognized agency representing the area or from a two-thirds (2/3) majority of the properties along the proposed route.

(b) All banners and necessary brackets (including replacement parts) shall be supplied by the requesting agency.

(c) Storage of banners shall be the responsibility of the requesting party.

(d) Requesting parties must designate an individual to serve as the contact person with the City.

(e) Banners shall be installed only in areas that are predominantly commercial zoning.

(f) Banner installation shall be consistent with planning and development policies, represent an appropriate theme and not detract from the aesthetics of an area. Plans for banner installation, including color scheme, theme and spacing shall be approved by the Community and Economic Development Department and Plan Commission before being forwarded to the Municipal Services Committee for issuance of a permit.

(g) Banner materials (including the brackets) shall be approved by the Department of Public Works.

(h) Banner installation shall be done by the Department of Public Works or by private contractor. If a private contractor is used, installation plans showing bracket locations and elevations must be provided and approved by the Department of Public Works.

(i) If performed by the Department of Public Works, the cost of initial banner and bracket installation will be divided equally between the applicant and the City (exclusive of materials).

(j) All costs of repair or replacement of banners done by the Department of Public Works will be charged to the requesting agency or designated individual as they are incurred.

(k) The cost of changeover of banners done by the Department of Public Works will be divided equally between the applicant and the City, up to a maximum of twice per year, after which all costs will be borne by the applicant.

(l) Banners will remain the property of the requesting agency.

(m) The requesting agency will be given thirty (30) days notice of deteriorated banners (in the judgment of the City) after which they will be removed and the cost of removal will be billed to the requesting agency or designated individual.

(n) Installation of items budgeted by the City for installation are exempt from this policy (angels, flags, etc.).

**Secs. 23-563 – 23-569. Reserved.**

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**Table 23-14A. Area, Height, and Number of Individual Signs by Zoning District.**

| Sign Type | AG | R1A, R1B, R-1C & R2 | R-3, NC | P-I & C-O | C-1 & C-2 | CBD | M-1 | M-2 |
|---|---|---|---|---|---|---|---|---|
| *Ground* | | | | | | | | |
| Area (sq. ft) [a] | - | - | - | 150 | 150 | 150 | 150 | 150 |
| Height (feet) [b] | - | - | - | 28 | 28 | 28 | 28 | 28 |
| Number Permitted [c, d] | - | - | - | 1 | 1 | 1 | 1 | 1 |
| *Building* | | | | | | | | |
| Wall sign area (whichever is less) | - | - | - | 350 or 35% | 350 or 35% | 350 or 35% | 10% | 10% |
| *Portable sign* [e] | - | - | - | 4x8 | 4x8 | 4x8 | 4x8 | 4x8 |
| *Temporary sign* [f] | - | - | - | 2½ x 3½ | 2½ x 3½ | 2½ x 3½ | 2½ x 3½ | 2½ x 3½ |

a. In residential zones, signs are permitted for specific uses identified in §23-508. The area of a ground sign may increase in size, according to exceptions allowed in §23-529.

b. In residential zones, signs are permitted for specific uses identified in §23-508. The height of ground signs may increase in size, according to exceptions allowed in §23-529.

c. In residential zones, signs are permitted for specific uses identified in §23-508.

d. More than one (1) sign may be allowed per lot, subject to §23-522 and §23-529.

e. Portable signs are allowed for one hundred twenty (120) days total per year.

f. Temporary signs are allowed one per street frontage in setback, unlimited on balance.

On the tables in this ordinance, which are organized by zoning district, the headings have the following meanings:

AG Agricultural District
R-1A, R-1B, R-1C R-2 Residential, Single and Two-Family District
R-3 Residential, Multifamily District
P-I Public and Institutional District
NC Nature Conservancy
C-O Commercial - Office District
C-1 Neighborhood Commercial District
C-2 General Commercial District
CBD Central Business District
M-1 Industrial Park District
M-2 General Industrial District

(Ord 1-15, §1, 1-27-15)

**Table 23-14B. Permitted Signs by Type and Zoning District.**

| Sign Type | AG | R-1A, R-1B, R-1C & R-2 | R-3, NC | P-I & C-O | C-1 & C-2 | CBD | M-1 | M-2 |
|---|---|---|---|---|---|---|---|---|
| *Ground* | A[a] | A[a] | A[a] | P | P | P | P | P |
| *Building* | | | | | | | | |
| Awning | X | X | X | P | P | P | P | P |
| Building Marker | A | A | A | A | A | A | A | A |
| Canopy | X | X | X | P | P | P | P | P |
| Projecting | X | X | X | P | P | P | P | P |
| Roof | X | X | X | X | X | X | X | X |
| Suspended | X | X | X | P | P | P | P | P |
| Swinging | X | X | X | X | X | X | X | X |
| Wall | A[a] | A[a] | A[a] | P | P | P | P | P |
| Window | A | A | A | A | A | A | A | A |
| *Miscellaneous* | | | | | | | | |
| Animated | X | X | X | X | X | X | X | X |
| Banner | A | A | A | A | A | A | A | A |
| Billboard | X | X | X | X | X | X | X | X |
| Changeable Copy | X | X | X | P | P | P | P | P |
| Construction | A | A | A | A | A | A | A | A |
| Directional | A | A | A | A | A | A | A | A |
| Flag | A | A | A | A | A | A | A | A |
| Home Occupation | A | A | A | A | A | A | A | A |
| Off-Premises | X | X | X | X | X | X | X | X |
| Portable | X | X | X | P | P | P | P | P |
| Real Estate | A | A | A | A | A | A | A | A |
| Residential | A | A | A | A | A | A | A | A |
| Temporary/Sandwich | X | X | X | P | P | P | P | P |

A – Allowed without a permit (§23-508).
P – Permit required.
X – Prohibited sign (§23-505).

a. Ground and wall signs are allowed only as identified in §23-508 and §23-529.

## ARTICLE XV. SITE PLAN REVIEW AND APPROVAL

### Sec. 23-570. Site plan review and approval.

(a) ***Purpose and intent***. A site plan review of certain new construction, rehabilitation of buildings, additions to structures, related site work and landscape development is required in order to further promote the safe and efficient use of land and to further enhance the value of property in the City. The site plan review process is intended to help ensure that newly developed properties, expanded structures or redeveloped properties are compatible with adjacent development and safety, traffic, overcrowding and environmental problems are minimized to the extent possible.

The site plan review requirements of this section are designed to ensure the orderly and harmonious development of property in the City in a manner that shall:

(1) Promote the most beneficial relationship between adjacent land uses.

(2) Facilitate efficient and safe circulation of traffic both on the site and as it interfaces with the public right-of-way and adjacent properties.

(3) Permit development to a level commensurate with the availability and capacity of public facilities and services.

(4) Encourage adequate provision for surface and subsurface drainage.

(5) Provide appropriate screening of parking, truck loading, refuse containers, mechanical equipment and outdoor storage areas from adjacent residential districts and public rights-of-way.

(b) ***No minor site plan or site plan review is required.***

(1) ***Change in existing building or structure:***

| When the gross floor area of the existing building, structure or use, except for parking lots or parking spaces is . . . | And the proposed gross floor area of the addition or expansion of the existing building, structure or use, except for parking lots or parking spaces is . . . |
|---|---|
| 0-10,000 square feet | Less than 1,000 square feet |
| 10,001-25,000 square feet | Less than 2,500 square feet |
| 25,001-50,000 square feet | Less than 5,000 square feet |
| 50,001 square feet and over | Less than 7,500 square feet |

a. While no minor site plan or site plan review is required for the above addition or expansions, the addition or expansion is still subject to all applicable provisions of this chapter including but not limited to: lot coverage, setbacks, building height, parking, loading, signage and lighting.

b. Prior to the issuance of a permit, persons not required to submit a minor site plan or site plan for the above referenced addition or expansions pursuant to this section shall submit all proposed plans and specifications to the Inspection Division along with the completed building permit application. The Inspections Division shall coordinate the review of such plans and specifications, if applicable, with other City staff. After the submittal and acceptance of a complete building permit application, and after notification to other City staff, the proposed plans and specifications shall be reviewed for compliance with all applicable provisions of this chapter and other Municipal Code provisions. Thereafter, the permit shall be approved, approved with conditions or denied with rationale within the review timeframe identified in the Building Code.

(2) ***Maintenance, overlay, resurfacing of an existing off-street parking lot and loading area.***

a. While no minor site plan or site plan review is required for maintenance, overlay and resurfacing of an existing off-street parking lot and loading area, the maintenance, overlay or resurfacing activity is still subject to all applicable provisions of this chapter.

b. Off-street parking lot and loading area maintenance (patching). Fifteen percent (15%) or less than the total square foot area of an existing off-street parking lot and/or loading area is allowed to be patched per calendar year without submittal of a minor site plan or site plan.

c. Prior to the issuance of a permit, persons not required to submit a minor site plan or site plan for maintenance, overlay or resurfacing of an off-street parking lot and loading area pursuant to this section shall submit all proposed plans and specifications to the Inspection Division along with the completed permit application. The Inspections Division shall coordinate the review of such plans and specifications, if applicable, with other City staff. After the submittal and acceptance of a complete building permit application, and after notification to other City staff, the proposed plans and specifications shall be reviewed for compliance with all applicable provisions of this chapter and other Municipal Code provisions. Thereafter, the permit shall be approved, approved with conditions or denied with rationale within the review timeframe identified in the Building Code.

(Ord 235-11, §1, 12-27-11; Ord 131-12, §1, 12-11-12)

(c) ***Minor site plan review and site plan review.*** In order to minimize submission requirements and expedite final approval for certain projects, there shall be two (2) types of site plan review: minor and major.

Minor site plan review shall be subject to review and approval by the Community and Economic Development Director and will require only that information identified in §23-570(g), Minor site plan required information, as deemed necessary by the Community and Economic Development Director to make an informed decision.

Site plan review shall be subject to the review and approval of the Community and Economic Development Director pursuant to ***all*** submission requirements of this section.

(1) ***Development subject to minor site plan review.***

a. The following in the AG, R-1A, R-1B, R-1C and R-2 zoning districts:

1. Accessory buildings, uses and structures when associated with the following:

a. Governmental facilities.

b. Places of worship.

c. Educational institution; elementary school, junior high school, high school.

d. Educational institution; college or university.

e. Educational institution; business, technical or vocational school.

f. Earth berms over three (3) feet in height.

b. The following in the R-3, P-I, N-C, C-O, C-1, C-2, CBD, parking, M-1 and M-2 zoning districts:

1. Accessory uses and structures.

2. Personal wireless facilities as identified in §23-422(b)(1)-(3).

3. Construction, reconstruction, rehabilitation and expansion of off-street parking lots and loading areas that consist of less than twenty (20) parking spaces or loading spaces.

(Ord 236-11, §1, 12-27-11)

(2) ***Development subject to site plan review.***

a. The following new buildings, building additions, or structures in the AG, R-1A, R-1B, R-1C and R-2 zoning districts:

1. Governmental facilities.

2. Places of worship.

3. Educational institution; elementary school, junior high school, high school.

4. Educational institution; college or university.

5. Educational institution; business, technical or vocational school.

6. Earth berms over three (3) feet in height.

b. The following buildings, building additions, uses and structures in the R-3, P-I, N-C, C-O, C-1, C-2, CBD, P, M-1 and M-2 zoning districts:

1. Any new buildings or structures except single- and two- (2-) family dwellings and accessory buildings, structures, or uses when associated with single- and two- (2-) family dwellings.

2. Additions to existing buildings, structures or uses except single and two (2) family dwellings and accessory buildings, structures, or uses when associated with single and two (2) family dwellings as established in the table below:

| When the gross floor area of the existing building, structure or use, except for parking lots or parking spaces is . . . | And the proposed gross floor area of the addition or expansion of the existing building, structure or use except for parking lots or parking spaces is . . . |
|---|---|
| 0-10,000 square feet | 1,000 square feet or greater |
| 10,001-25,000 square feet | 2,500 square feet or greater |
| 25,001-50,000 square feet | 5,000 square feet or greater |
| 50,001 square feet and over | 7,500 square feet or greater |

3. Internal function of a building is changed which requires ten percent (10%) more in the number of off-street parking spaces.

4. Construction, reconstruction, rehabilitation and expansion of off-street parking lots and loading areas that consist of twenty (20) or more parking spaces or loading spaces.

5. Off-street parking lot and loading area reconstruction (patching). Reconstruction (patching) of off-street parking lots and loading areas that affects greater than fifteen percent (15%) of the total square foot area of an existing off-street parking lot and/or loading area per calendar year.

6. Storage tanks over five thousand (5,000) gallons or over twelve (12) feet high.

7. When a building or structure is destroyed by more than fifty percent (50%) of the City of Appleton's fair market value and the property owner desires to rebuild, except in the case of single- and two- (2-) family dwellings and accessory buildings, structure or uses when associated with single- and two-(2-) family dwellings.

8. Earthen berm over three (3) feet in height.

(Ord 237-11, §1, 12-27-11)

(d) ***Authority.*** The Community and Economic Development Director is hereby charged with the duty of performing site plan review and granting site plan approval for minor site plans and site plans.

(e) ***Procedure.*** Whenever any property owner or individual having a contractual interest proposes to develop/redevelop any tract or parcel of land where site plan review is required, that person shall submit to the Community and Economic Development Director a request for minor site plans or site plan approval.

1. ***Presubmittal meeting.*** To ensure the correct submission of a minor site plan or site plan and to identify the requirements for a complete application, applicants shall attend a presubmittal meeting with the City Community and Economic Development staff prior to submitting an application for site plan review. The applicant will discuss with staff the submission requirements for minor site plan and site plan review. The Community and Economic Development Director shall have the authority to waive the presubmittal meeting, if necessary.

2. ***Submission of application.*** All required information shall be submitted to the Community and Economic Development Director for review and processing. Within fifteen (15) business days after the submittal and acceptance of a complete application, and after notification to the Alderperson of the appropriate district and in consultation with other City officials, the Community and Economic Development Director shall, in a written decision, state the findings of the Site Plan Review Committee. Upon approval, approval with modifications or conditional approval, a building permit may be issued.

3. ***Request of additional information.*** If in the judgment of the reviewing authority, the site plan application does not contain sufficient information to enable it to properly discharge its responsibilities, the reviewing authority may request additional information from the applicant. In that event, the fifteen (15) business day period referred to above shall be suspended pending the receipt of all information requested.

No building permit shall be issued by the City until site plan approval has been granted as provided in this section. (Ord 171-11, §1, 8-9-11)

(f) ***Fees and structure.*** Fees for site plan review shall be established by the City to cover the cost of this review. This fee may include passing along review costs of consultants or agencies that may be requested for review of site plans under unique circumstances such as traffic impact studies or stormwater management plans.

(g) ***Minor site plan required information.*** Minor Site Plans which are submitted for review shall be drawn to an appropriate scale on sheets of uniform size, recommended at 11”x17” or a previously approved site plan may be used and submitted. A total of twelve (12) complete sets shall be submitted to the Community and Economic Development Director.

All Minor Site Plans shall include as a minimum all of the following items of information. The Community and Economic Development Director may waive any of the following submission requirements as deemed unnecessary for review, at the time of the presubmittal conference.

(1) Name of project, address, legal description of property, tax key number of each lot, description of proposed use and both existing and proposed zoning descriptions.

(2) Name, address and phone number of the record property owner and site plan preparer (include fax number if available).

(3) North arrow, date of preparation, revision dates and scale.

(4) Name(s) of adjacent or surrounding streets.

(5) Recorded property lines and their dimensions.

(6) The total land area in the development.

(7) All existing and proposed buildings and structures accessory to the principal use, including use of each structure, dimensions, identification of the class of construction (per State Building Code), and their location on the parcel.

(8) Dimensions of existing and proposed yard setbacks of the buildings and structures.

(9) Dimensions of existing and proposed parking, loading and unloading areas, and sidewalks. Identify proposed and existing surface materials.

(10) Show existing and proposed landscaping. Identify size and variety of existing and proposed landscaping including the preservation of existing trees on site.

(11) Identify by list the type of roof, wall and all trim materials, colors and textures and submit color samples and building material samples.

(12) If buildings are to be removed, the site plan shall so indicate.

(13) A note shall appear on the minor site plan that indicates the calculations for parking and loading requirements per §23-172(m), Required spaces for specific uses.

(14) Existing and proposed driveways and parking lots including: pavement markings to show traffic flow; parking stall sizes and layout; handicap stalls and ramps; loading zones, driveways widths and radii or flares on driveway aprons to public streets.

(15) If existing curb cuts are to be abandoned, the statement "curb cut will be closed per City of Appleton standards" shall be clearly noted on the site plan.

(16) Identify all proposed sidewalks with grade elevations and handicap access at driveways.

(17) Identify snow storage areas located outside of setbacks, in required parking areas, landscaped areas and vision clearance triangles.

(18) The location and extent of all existing and proposed outdoor storage and outdoor display.

(19) The location and detail of refuse containers and their enclosures.

(20) The location of all mechanical equipment and the type of screening provided.

(21) Location, heights, elevations and materials of all fences or retaining walls.

(22) Show on-site fire hydrants.

(23) Identify as needed, any public right-of-way with accurate locations for existing and proposed facilities such as streets, curbs, sidewalks, sidewalk planters, street trees, utility poles, traffic signs and signals, median islands, project driveways, driveways on opposite street frontages, bus stops and other improvements. Elevations of sidewalks at property lines and elevations to indicate handicap accessibility shall be identified. A statement that "Any existing sidewalk damaged during construction will be replaced as a part of this project" shall be clearly noted on the site plan.

(24) Calculate drainage area for each catch basin. Indicate the size and slope of utility lines that will be tapped into in the adjacent streets.

(25) Identify as needed, all existing and proposed public and private easements for utility, drainage, sewer, parking, access and other purposes, and all easements on surrounding properties benefiting the subject property. If existing utilities are to be abandoned, clearly state the method of abandonment.

(26) Identify, as needed, all existing and proposed sanitary sewer mains and laterals including method of connection to public main, easements, size, materials, slope, manholes, rim elevation, invert elevations, clean outs, plumbing code calculations, how many drainage fixture units and public mains for connection.

(27) Identify, as needed, all existing and proposed water mains and laterals, including easements, size, depth, materials, tracing wires, hydrants, method of connection valves, meters, plumbing code calculations, how many water supply fixture units and public mains for connection.

(28) Identify, as needed, all existing and proposed storm sewer mains and laterals, including method of connection to public main, easements, size, materials, slope, manholes, inlets, catch basins, yard drains, rim elevations,

invert elevations, area map for drainage to each catch basin, square feet draining to each catch basin, plumbing code calculations, roof drain discharges and/or connections, square foot of roof area and public systems for connection.

(29) Identify, as needed, all existing and proposed surface run-off features, including easements, swales, open channels, type of surface, rip rap, flow path of runoff from upstream areas and flow path for runoff leaving the site including the public system adjacent to or for connection.

(30) Identify, as needed, existing topography (by dashed lines) at one (1) foot intervals and proposed grade elevations per city elevations (City datum) for the building, parking lot, catch basin inlet, rim and invert elevations, drives, surrounding open areas and including all property within fifty (50) feet using contour lines and spot elevations and drainage flow areas as needed to define drainage patterns.

(31) List all existing and proposed grades for first floor elevations.

(32) Provide all erosion control information as required in Chapter 24 of the Appleton Municipal Code.

(33) Identify all exterior lighting fixtures, either mounted on the building or freestanding light along with dispersion pattern, intensity of light and cut-off shielding that reflects light downward and in which the light source is not visible from adjacent properties.

(34) Identify type of all surfaces, including seeded grass, sod, type of mulch in planting beds, pavers, concrete and asphalt, including pavement thickness.

(35) Identify streams, wetlands, channels, ditches and other watercourses on the site and on adjacent properties.

(36) Identify the 100-year flood plain, including flood fringe, floodway and flood storage areas.

(37) Identify the size of basement/below grade space or clearly mark “no below grade space” on the site plan.

(38) Calculate lot coverage percentage of impervious surface areas.

The Community and Economic Development Director may require additional information or may waive submission requirements as deemed necessary at the presubmittal conference for thorough and efficient review.

(h) ***Site plan required information.*** Plans which are submitted for review shall be drawn to an appropriate scale on sheets of uniform size, recommended at 24” x 36”. A total of twelve (12) complete folded sets shall be submitted to the Community and Economic Development Director.

All site plans shall include as a minimum all of the following items of information:

(1) Name of project, address, legal description of property, tax key number of each lot, description of proposed use and both existing and proposed zoning descriptions.

(2) Location map.

(3) Name, address and phone number of the record property owner and site plan preparer (include fax number if available).

(4) The signature of the surveyor, engineer or architect who is responsible for site plan preparation along with the revision date(s) clearly marked on the plan.

(5) North arrow, date of preparation and revision.

(6) Dates and scale.

(7) Name(s) of adjacent or surrounding streets.

(8) Recorded property lines and their dimensions.

(9) The total land area in the development including the percentage of lot coverage for all impervious surface areas.

(10) The schedule of phasing for this project if to be completed in phases.

(11) The location and architectural features of all existing and proposed structures, including occupancy classification of each structure as identified in the State Building Code, dimensions, number of stories and their locations on the parcel.

(12) Identify what types of products will be manufactured, sold and/or stored on site.

(13) Identify all types of hazardous materials to be stored on site. If none, state "No hazardous materials will be stored on site".

(14) Identify if there will be food and/or beverage sales, a public swimming pool or whirlpool, or overnight lodging at this location.

(15) If buildings are to be removed, the site plan shall so indicate.

(16) A note shall appear on the of the site plan that indicates the calculations for parking and loading requirements which must identify: All existing uses on the property, the number of existing, proposed and future employees based on a five (5) year projection, the gross floor area and useable floor area for existing buildings, expanded buildings and proposed buildings and a calculation of required handicapped accessible parking spaces. Any joint use of parking must be in writing, approved by the Community and Economic Development Director, signed by both parties involved and attached and recorded in the Registrar of Deeds Office.

(17) Show barriers, curbing or wheel stops.

(18) Existing and proposed driveways and parking lots including: pavement markings to show traffic flow; parking stall sizes and layout; handicap stalls and ramps; loading zones; driveway widths and radii or flares on driveway aprons to public streets. For parking areas, identify all proposed and existing stop signs at all private driveway exits onto public roadways. If stop signs are required, add a note on the site plan identifying: "Stop signs shall be installed and maintained in accordance with the Federal Highway Administration Manual of Uniform Traffic Control Devices, latest version."

(19) If existing curb cuts are to be abandoned, the statement "Curb cut will be closed per City of Appleton standards" shall be clearly noted on the site plan.

(20) For drive-through uses, show vehicle stacking spaces and pedestrian access to entry doors that do not cross drive-through lanes.

(21) Provide recycling calculations and locations according to the State Building Code.

(22) Identify all existing and proposed sidewalks with grade elevations and handicap access at driveways.

(23) Identify snow storage areas located outside of setbacks, in required parking areas and vision clearance triangles.

(24) Dimensions of all required yard setbacks for buildings and off-street parking (any variances approved by the Board of Appeals attached).

(25) The location and extent of all existing and proposed outdoor storage and outdoor display.

(26) The location and detail of refuse containers and their enclosures, sidewalks, other pedestrian-type walkways, bicycle storage racks, traffic control dividers, tree islands and other similar improvements.

(27) The location of all mechanical equipment and the type of screening provided.

(28) Location of existing and proposed signage, sign elevation showing the height of sign to grade, height and face dimensions, colors, typeset, materials, lighting and orientation of signage.

(29) Location, height, elevations and materials of all fences or retaining walls.

(30) Location, size and use of any buildings, driveways and public rights-of-ways within fifty (50) feet of property lines and driveways, including those located across the street.

(31) Identify the types of fire protection/detection systems will be used.

(32) Show on-site fire hydrants, Fire Department hose connections, and the respective flow calculations to meet the International Fire Code for installed fire protection systems.

(33) The statement "A Knox Box will be provided at the front entrance" shall be included on the site plan.

(34) Identify the location and presence of all fire related wall assemblies.

(35) Identification of the class of construction in accordance with State Building Code.

(36) When abutting a site plan project, any public right-of-way shall be identified with accurate locations for existing and proposed facilities such as streets, curbs, sidewalks, sidewalk planters, street trees, utility poles, traffic signs and signals, median islands, project driveways, driveways on opposite street frontages, bus stops and other improvements. Elevations of sidewalks at property lines and elevations to indicate handicap accessibility shall be identified. A statement that "Any existing sidewalk damaged during construction will be replaced as a part of this project" shall be clearly noted on the site plan.

(37) Locate and label, whether underground or overhead, all existing and proposed utility lines and easements with sizes and material designations, and slopes (as needed), including sanitary sewer (manholes, laterals and clean outs), storm sewer (manholes, laterals and catch basins), water (laterals, fire lines, valves and meters), fire hydrants, gas, telephone, cable and electric lines.

(38) Calculate drainage area for each catch basin. Indicate the size and slope of utility lines that will be tapped into in the adjacent street.

(39) Show all existing and proposed public and private easements for utility, drainage, sewer, parking, access and other purposes, and all easements on surrounding properties benefiting the subject property. If existing utilities are to be abandoned, clearly state the method of abandonment.

(40) State the provider of sanitary and water if not provided by the City of Appleton and provide written documentation of approval from said provider.

(41) Identify all existing and proposed sanitary sewer mains and laterals, including: methods of connection to public mains, easements, size, materials, slope, manholes, rim elevation, invert elevations, clean outs, plumbing code calculations, how many drainage fixture units and public mains for connection.

(42) Identify all existing and proposed water mains and laterals, including easements, size, depth, materials, tracing wires, hydrants, method of connection valves, meters, plumbing code calculations, how many water supply fixture units and public mains for connection.

(43) Identify all existing and proposed storm sewer mains and laterals, including the method of connection to the public main, easements, size, materials, slope, manholes, inlets, catch basins, yard drains, rim elevations, invert elevations, area map for drainage to each catch basin, square feet draining to each catch basin, plumbing code calculations, roof drain discharges and/or connections, square foot of roof area and public systems for connection.

(44) Identify all existing and proposed surface run-off features, including easements, swales, open channels, type of surface, rip rap, flowpath of runoff from upstream areas, and flowpath for run-off leaving the site including the public system adjacent to or for connection.

(45) Identify existing topography (by dashed lines) at one (1) foot intervals and proposed grade elevations per City elevations (City datum) for the building, parking lot, catch basin inlet, rim and invert elevations, drives, surrounding open areas and including all property within fifty (50) feet using contour lines and spot elevations and drainage flow arrows as needed to define drainage patterns.

(46) List all existing and proposed grades for first floor elevations and catch basin inlet rim and invert elevations.

(47) Show details of all existing and proposed retaining walls, swales and inlets.

(48) Provide all erosion control information as required in Chapter 24 of the Appleton Municipal Code.

(49) Identify all exterior lighting fixtures, either mounted on the building or freestanding light along with dispersion pattern, intensity of light and cut-off shielding that reflects light downward and in which the light source is not visible from adjacent properties.

(50) Provide cross-sections for all pavement and identify depth of base gravel base and thickness of hard-surfaced pavement (concrete or asphalt compacted).

(51) Locate all trees over six (6) inches in diameter and indicate whether they will remain, be relocated or be removed. Identify any other significant vegetation that is to remain and the means of protection during construction.

(52) Identify the location, size, species and variety of proposed trees, shrubs, ground cover and other landscape features that will be used to control erosion, or screen parking, truck loading, refuse disposal, and outdoor storage from adjacent residential districts and the public right-of-way.

(53) Identify the finished height and width of landscape elements.

(54) Provide a planting schedule that includes a key abbreviation, graphic symbol of vegetation, botanical name of plants, common name of plants, quantity of plants, size of plant at planting and size of plant at maturity.

(55) Identify type of temporary and finishing materials, including seeded grass, sod, type of mulch in planting beds, pavers, concrete and asphalt.

(56) Identify streams, wetlands, channels, ditches and other watercourses on the site and on adjacent properties.

(57) Identify the 100-year floodplain, including flood fringe, floodway and flood storage areas.

(58) Identify the predominate soil types.

(59) Identify all open space that will remain undisturbed and undeveloped.

(60) Provide dimensioned elevations of all exterior walls (photographs may be substituted for existing elevations to remain unchanged).

(61) Identify the size of basement/below grade space or clearly mark “not below grade space” on the site plan.

(62) Identify by list the type of roof, wall and all trim materials, colors and textures and submit color samples and building material samples.

(63) Changes or additions to existing buildings or materials clearly identified.

(64) Identify the location(s) of outdoor display areas and/or outdoor storage areas.

(65) Multifamily residential projects shall include additional information that identifies the total acres of subject property, the total number of dwelling units and density per acre and the percentage of proposed site coverage for buildings and hard-surfaced areas as opposed to green space and landscaping.

(66) The Community and Economic Development Director may require additional information or may waive submission requirements as deemed necessary for thorough and efficient review.

(i) ***Scope of review.*** The Community and Economic Development Director, when evaluating minor site plans or site plans, will review:

(1) The relationship of the site plan to adopted land use plans and policies.

(2) Parking layout so as to:

a. Minimize dangerous traffic movements.

b. Achieve efficient traffic flow in accordance with standards in the Institute of Traffic Engineers Transportation and Traffic Engineering Handbook.

c. Provide for the optimum number of parking spaces, while maintaining City design standards.

d. Provide for pedestrian safety.

(3) Provisions for surface and subsurface drainage and for connections to water and sewer lines, so not to overload existing public utility lines nor increase the danger of erosion, flooding, landslide or other endangerment of adjacent or surrounding properties.

(4) Landscaping, so as to:

a. Maintain existing mature trees and shrubs to the maximum extent practicable. Where practical, the property owner shall make every effort to preserve and retain existing trees and vegetation on the site when designing for the development or redevelopment of the site during design, construction and after construction.

b. Buffer adjacent incompatible uses.

c. Screen unsightly activities from public view.

d. Break up large expanses of asphalt and buildings with plant material.

e. Provide an aesthetically pleasing landscaping design.

f. Provide plant materials and landscaping designs that can withstand the City's climate and the microclimate on the property.

(5) Location of principal structures, accessory structures, lighting, freestanding signs, refuse containers, mechanical equipment, etc. so that their location and proportion does not impede safe and efficient traffic flow or adversely impact the development of adjacent property or the character of the surrounding neighborhood.

(6) All electrical, telephone and cable lines shall be placed underground whenever practical.

(7) Compliance with this chapter, the subdivision regulations and the stormwater ordinance of the City of Appleton.

(j) ***Validity of approval, expiration and revisions to site plan.*** A site plan shall become effective upon obtaining certification of approval by the Community and Economic Development Director on the minor site plan or site plan application and the signature of the Director on the approved plans (revised if necessary).

The approval of any site plan required by this section shall remain valid for one (1) year after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this article, "actual construction" shall mean that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property or stockpiling of materials on the site shall not constitute actual construction.

An approved site plan shall remain in effect until it is supplanted by a new site plan or is deemed null and void as identified above. A revision to a site plan may be requested by submitting the changes in writing or on a copy of the approved site plan to the Community and Economic Development Director. The Community and Economic Development Director may approve, approve with conditions, deny the requested revision(s) or determine that a new site plan is needed.

Cases that require an extension of time by the applicant can be submitted to the Community and Economic Development Director, in writing, for consideration. In no case, however, shall an extension of time exceed one (1) year.

(k) ***Appeal.*** If the Community and Economic Development Director denies the application for a site plan or approves the site plan with conditions, the applicant may appeal the decision to the Plan Commission. A notice of appeal must be filed with the Community and Economic Development Director no later than fifteen (15) days after receipt by the applicant of the decision of the Community and Economic Development Director. Failure by an applicant to file an appeal in accordance with the foregoing provisions shall be deemed to constitute a withdrawal of the application for a site plan.

The Plan Commission shall act as promptly as practical on any appeal taken in connection with the proposed site plan. The Plan Commission shall approve, approve with conditions or disapprove the site plan by action taken by a majority of the Plan Commission present at any meeting at which a quorum is present. If the Plan Commission approves the site plan, a building permit may then be issued, provided that all other requirements of all other applicable City codes and ordinances are satisfied.

(l) ***Violation.*** Construction or other activities contrary to the approved site plan, or in the absence of an approved plan, shall be a violation of this section.
(Ord 61-94, §5, 5-18-94; Ord 52-95, §1, 4-19-95; Ord 69-96, §1, 8-7-96; Ord 106-96, §1a, 11-6-96, Ord 121-05, §1, 10-25-05; Ord 167-07, §1, 12-25-07; Ord 235-11, §1, 12-27-11; Ord 237-11, §1, 12-27-11)

**Secs. 23-571 – 23-600. Reserved.**

## ARTICLE XVI. LANDSCAPING AND SCREENING

### Sec. 23-601. Landscaping and screening standards.

(a) ***Purpose.*** The landscaping and screening requirements specified in this section are intended to:

(1) Foster aesthetically pleasing development which will protect and enhance the appearance, character, health, safety and welfare of the community; and

(2) To increase the compatibility of adjacent uses, by minimizing adverse impacts of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusions and other objectionable views, activities or impacts to adjacent or surrounding uses.

(b) ***Applicability.*** A landscape plan shall be required for all exterior construction and development activity, including the expansion of existing buildings, structures and parking lots, except construction of detached single-family and two-family dwellings and their accessory structures. The landscape plan shall be drawn in conformance with the requirements specified in this section.

(c) ***Authority.*** The Community and Economic Development Director is hereby charged with the duty of performing landscape plan review and granting landscape plan approval prior to issuance of a building permit.

Landscape plans for special use permits and planned developments shall also be reviewed and approved by the Plan Commission and Common Council.

(d) ***Approval procedure.*** Whenever any property owner or individual having a contractual interest proposes to develop, redevelop or expand a building, structure, or off-street parking lot on any tract or parcel of land where landscape plan review is required, that person shall submit to the Community and Economic Development Director a request for landscape plan approval.

All required information shall be submitted to the Community and Economic Development Director for review and processing. Within thirty (30) days after submittal, the Community and Economic Development Director, after notification to the alderperson of the appropriate district and in consultation with other City officials, shall approve, approve with modifications, conditionally approve or deny the request. If, in the judgment of the reviewing authority, the landscape plan does not contain sufficient information to enable it to properly discharge its responsibilities, the reviewing authority may request additional information from the applicant. In that event, the thirty (30) day period referred to above shall be suspended pending the receipt of all information requested.

The Community and Economic Development Director may seek professional advice from a registered landscape architect or licensed nurseryman in the review of any submitted landscape or screening plan. The cost of such consultation shall be passed on to the applicant.

Any applicant aggrieved by a decision to deny a permit may appeal as set out in §23-68, Administrative appeals.

No building permit shall be issued by the City until landscape plan approval has been granted as provided in this chapter.

(e) ***Required information.*** All landscape plans submitted for approval shall contain or have attached the following information:

(1) The location and dimensions of all existing and proposed structures, building entrances, parking lots and drives, rights-of-way, sidewalks, bicycle paths, ground mounted signs, refuse disposal areas, bicycle parking areas, fences, freestanding electrical equipment, recreational facilities and other freestanding structural features.

(2) In the required landscape plan, state, at planting and at maturity, the location, quantity, size and name (including common and botanical names) of all proposed plant materials and any other information to fully describe the plant material. The location, size and type of existing plant material shall simply be identified.

(3) The location of all existing trees over six (6) inches in diameter.

(4) The location and size of existing structures and plant materials on adjacent property within the required yard of that adjacent property.

(5) Existing and proposed grading of the site, including proposed berming (indicating contours at one (1) foot intervals), spot elevations for high and low points, the flow line of drainage swales and grading features such as retaining walls, etc.

(6) Specification of the type and boundaries of all proposed ground cover.

(7) Elevations, including dimensions and materials, of all fences proposed for construction on the site.

(f) ***Design criteria.*** Landscape plans shall be prepared, evaluated and approved based on design criteria as identified below:

(1) Landscaping, at a minimum, shall reflect the character of the property and of adjacent properties.

(2) Any landscaping located within the front setback, in a required vision corner or within fifteen (15) feet of a private driveway (§23-50(f), Vision corner), shall have the following restrictions:

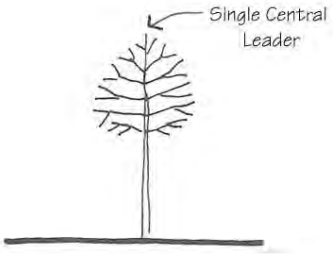
a. Shrubs shall be maintained at a height of no greater than three (3) feet.

b. Trees must have a clearance from the ground to the bottom of the first branch of a minimum of six (6) feet.

(3) Side yard screening located within fifteen (15) feet of the street right-of-way or private driveway must not exceed three (3) feet in height. For other side and rear yard screening requirements, see §23-50(f), Vision corner.

(4) The mature spread and overhang of plantings shall not obstruct pedestrian use of walkways or vehicular use of drives or off-street parking spaces.

(5) All shade trees shall have a minimum trunk size of two and one-half (2½) inches in diameter upon installation as measured at six (6) inches above the established ground level. Shade trees shall be specimen grade with a single central leader.




(6) Trees and plant materials used in landscaping and screening shall conform to the standards of the American Association of Nurserymen and shall have passed any inspection required under state regulations.

(7) Detention/retention basins and ponds shall be landscaped. Such landscaping may include shade and ornamental trees, grasses, evergreens, shrubbery, hedges or other suitable planting materials and used in a manner that controls siltation and erosion.

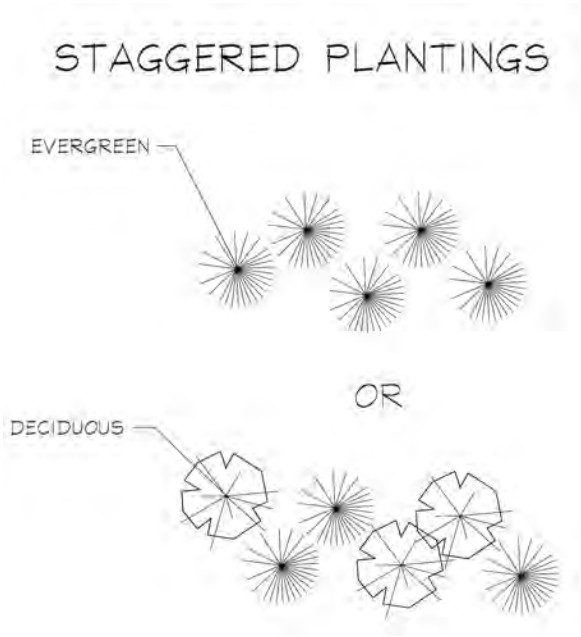
(8) Trees to be maintained on and adjacent to the property shall be protected during construction by placing a barrier beyond the dripline of the tree canopy.

(9) New plantings shall not be allowed to shade an existing solar panel receptor on an adjacent property.

(10) The scale and nature of landscaping materials shall be appropriate to the size of buildings and structures in the project, as well as complement the surrounding neighborhood.

(11) Plant material shall be selected for its form, texture, color, and maintenance and with consideration for its ultimate size at maturity and its adaptability to site conditions.

(12) Shrubs and hedges used for screening purposes shall be installed in a staggered pattern and shall be at least twenty-four (24) inches in height at the time of planting. The plantings shall be designed to provide an effective, dense screen within two (2) years after the date of planting. The height at installation of the planting shall be measured from the level of the surface of the plant base at the edge closest to the screening.




(13) At maturity, trees shall be maintained so there is a seven (7) foot underclearance when over off-street parking spaces, off-street loading spaces and drive aisles, and a ten (10) foot underclearance when over a public right-of-way to meet Crime Prevention Through Environmental Design (CPTED) standards. Trees shall be planted as far from the public sidewalk as possible.

(14) Plant material shall be placed intermittently against long expanses of building walls, fences and other barriers to achieve a softening effect of hard building lines.

(15) Earthen berms and existing topography shall be incorporated into the landscape treatment of a site. Berms shall conform to the following standards:

a. The maximum side slope of any berm shall be three horizontal to one vertical (3:1) and the design shall be reviewed by the Community and Economic Development Director to ensure that proper drainage, erosion prevention and control practices have been utilized.

b. Berms and earth mounds shall be designed with physical variations in height and alignment throughout their length.

c. Adequate ground cover shall be used and maintained to prevent erosion of the earth mound.

(16) Plantings or an enclosure shall screen service structures such as mechanical equipment, utility box pads and pedestals, trash containers and other enclosures.

(17) Plantings around the base of ground signs is required. A minimum area of total sign face area of one (1) side of a sign shall be landscaped at the base of the sign.

(18) Existing plant material shall, wherever practical, be incorporated into the landscape treatment of a site.

(19) Where utilities are to be installed within an existing root zone area, augering under the roots rather than trenching shall be used. Augering at a depth of four (4) feet is recommended.

(20) Planting beds shall be mulched with bark chips, or other similar natural quality landscaping materials. Decorative stone may be use in conjunction with natural mulch upon approval by the Community and Economic Development Director.

(21) When walls or fences are used to fulfill screening requirements, they shall be detailed on the required plan. They are to be constructed of weatherproof materials. This includes pressure treating or painting of lumber if it is not redwood or cedar and using aluminum or galvanized hardware. Chain link fences with tubular privacy slats may be permitted to satisfy screening requirements if approved by the Community and Economic Development Director.

Any wall or fence used for screening shall be constructed so that the finished, or most visually appealing side of the wall or fence, is facing the adjacent property. Any wall or fence not used for screening purposes shall be regulated in §23-44, Fences and walls, of this zoning ordinance.

(22) When screening service structures, the following regulations shall be observed:

a. Service structures shall include, but not be limited to: propane tanks, trash containers, electrical transformers, utility vaults which extend above the ground; ground mounted utility equipment, transformer boxes and other equipment or elements providing service to a building or a site. The screening height shall be based upon the tallest point of the structure(s) being buffered.

b. A continuous staggered planting of evergreens, an alternating board on board fence or a chain link fence with tubular privacy slats, shall enclose any service structure on all sides, unless such structure must be frequently moved or accessed, in which case screening material shall be established to allow access to the structure.

c. Whenever screening material is placed around any trash containers or waste collection unit that is emptied or removed mechanically on a regular basis. The plant material shall be at a sufficient distance from the enclosure to prevent possible damage to the screening when the container is moved or emptied.

(23) As landscaping is a site-specific design element, a waiver may be requested from the Community and Economic Development Director.

(g) ***Parking lot landscaping.*** All parking lots shall be landscaped and screened in accordance with the provisions in §23-172, Off-street parking and loading standards.

(h) ***Maintenance.***

(1) ***Responsibility.*** The owner of the premises shall be responsible for the maintenance, repair and replacement of all landscaping materials and barriers, including refuse disposal areas, as may be required by the provisions of this chapter. The owner or developer must provide a maintenance plan which indicates how the established buffer and landscaped areas will be maintained.

(2) ***Landscaping materials.*** All landscaping materials shall be installed and maintained to accepted nursery practices. All plant material shall be maintained in good condition and shall be kept free of refuse and debris so as to present a healthy, neat and orderly appearance. All unhealthy or dead plant material shall be replaced at the next planting period.

(3) ***Fences and walls.*** Fences, privacy slats, walls and other barriers shall be maintained in good repair.

(4) ***No disturbance.*** Once a buffer has been approved by the Community and Economic Development Director and established by the owner, it may not be used, disturbed or altered for any purpose without review and approval of a new landscape plan submitted by the applicant.

(i) ***Alternative compliance landscape plan.*** An alternative compliance landscape plan may be approved by the Community and Economic Development Director, upon request, if an applicant demonstrates that the intent of this section can be more effectively met, in whole or in part, through alternative means. If approved, an alternative compliance landscape plan shall be substituted, in whole or in part, for a landscape plan meeting the express terms of this section. Alternative compliance is not a departure, variance or a waiver. The proposed solution must meet or exceed otherwise applicable landscaping and screening requirements as established in this section.

(1) ***Procedure.*** Alternative compliance landscape plans shall be prepared and submitted in accordance with the landscape plan procedures as identified in this section. The plan shall be clearly labeled as an *"Alternative Compliance Landscape Plan,"* and it shall clearly identify the modifications and alternatives proposed.

(2) ***Review criteria.*** In reviewing proposed alternative compliance landscape plans, favorable consideration shall be given to exceptional landscape designs that attempt to preserve and incorporate existing vegetation in excess of minimum standards and plans that demonstrate innovative design and use of plant materials. Alternative compliance landscape plans may be approved upon a finding that any of the following circumstances exist on the proposed building site or surrounding properties:

a. Natural land characteristics or existing vegetation on the proposed development site would achieve the intent of this article;

b. Innovative landscaping or architectural design is employed on the proposed development site to achieve a screening effect that is equivalent to the screening standards of this section;

c. The required landscaping or buffering would be ineffective at maturity due to topography or the location of improvements on the site; or

d. The proposed alternative represents a plan that is as good or better than a plan prepared in strict compliance with the other standards of this section.

e. The alternative landscaping plan would achieve a better way to help achieve the containment of stormwater or enhance the overall quality of stormwater.

(j) ***Modifications of standards.*** The Community and Economic Development Director shall have the authority to waive or modify the requirements and standards of this section for good cause shown by the applicant.
(Ord 238-11, §1, 12-27-11; Ord 239-11, §1, 12-27-11; Ord 240-11, §1, 12-27-11; Ord 241-11, §1, 12-27-11; Ord 243-11, §1, 12-27-11)

**Secs. 23-602 – 23-650. Reserved.**

## ARTICLE XVII. HISTORIC PRESERVATION

### Sec. 23-651. Historic preservation.

(a) ***Purpose.*** It is hereby declared a matter of public policy that the protection, enhancement, preservation and use of improvements or sites of special character or special architectural, archeological or historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this section is to:

(1) Effect and accomplish the protection, enhancement and preservation of such improvements, sites and districts which represent or reflect elements of Appleton's cultural, social, economic, political, artistic and architectural history;

(2) Safeguard Appleton's historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures, sites and districts;

(3) Foster civic pride in the notable accomplishments of the past;

(4) Stabilize and improve property values and enhance the visual and aesthetic character of Appleton;

(5) Protect and enhance Appleton's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.

(b) ***General.*** This section shall in no way be construed to undermine or supersede and shall be consistent with the existing adopted City of Appleton Municipal Code which protects the public health, safety and welfare of Appleton residents. Ordinary maintenance and repairs shall be made to ensure compliance with Article 4 of Chapter 4 of the Municipal Code.

(c) ***Definitions.*** See Section 23-22 Words and terms defined, under the reference "HISTORIC PRESERVATION".

(d) ***Organization.*** The Historic Preservation Commission is hereby created and shall consist of five (5) regular members and two (2) alternates appointed by the Mayor and subject to approval by the Common Council as vacancies occur or terms expire.

(e) ***Members and qualifications.*** If possible, one (1) regular member shall be an architect; one (1) shall be an alderperson; two (2) regular members shall have historian, restoration craftsperson, or architectural history credentials or expertise, or other historic preservation related disciplines such as urban planning, American Studies, American Civilization, cultural geography or cultural anthropology; one (1) regular member shall be a licensed real estate broker with two (2) alternates appointed from any of the above qualifications. All members shall be selected for their knowledge of and interest in matters pertaining to this section. Alternate members shall have full voting power in the event one (1) or more regular members have declared a conflict of interest or in the event one (1) or more regular members are absent.

(f) ***Terms.*** The term for each member shall be three (3) years on staggered terms except, the alderperson will be appointed annually at the Common Council annual reorganizational meeting. The term for each member shall expire May 1 of each year.

(g) ***Reorganizational meeting.*** The Historic Preservation Commission shall reorganize in May of each year by electing a chair, vice-chair, contact person and secretary. All meetings of the Commission shall be held at the call of the chairman or at such times as the Commission determines.

(h) ***Designation of local historic structures, local historic sites and local historic districts.*** The Historic Preservation Commission shall have the power to recommend local designation of historic structures, historic sites and historic districts within the City of Appleton limits. Such designation shall be made based on the review of the local historic structure, local historic site and local historic district designation criteria identified in subsection (i) of this section. Local designation of historic sites, historic structures and historic districts shall be recommended to the Community and Economic Development Committee who will review and recommend to the Common Council for a final approval. Once designated, such local historic structure~~s~~, local historic site and local historic district shall be subject to all the provisions of this chapter.

(i) ***Local historic structure, local historic site and local historic district designation criteria.*** For purposes of this chapter, a local historic structure, local historic site or local historic district designation may be placed on any improvement parcel, natural area, improvement, or any area of particular historic, architectural, archeological or cultural significance to the City of Appleton, the state or the nation, which is determined to have historical significance by meeting at least one (1) of the following criteria:

a. Criterion 1: Are identified with important events that exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or

b. Criterion 2: Are identified with an important person or persons that have made specific contributions to national, state or local history; or

c. Criterion 3: Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship, or that represents a significant and distinguishable entity whose components lack individual distinction; or

d. Criterion 4: Are representative of the notable work of a master builder, designer or architect who influenced his age; or

e. Criterion 5: Have yielded, or may be likely to yield, information important to prehistory or history.

(j) ***Operating guidelines.*** The Historic Preservation Commission may adopt specific operating guidelines subject to Common Council approval for local historic structure, local historic site and local historic district designation, providing such operating guidelines are in conformance with the provisions of this chapter. It is important to ensure that these operating guidelines are reviewed on a regular basis to ensure they are appropriate to the architectural and site characteristics of the full range of the City of Appleton's designated local historic structures, local historic sites and local historic districts and that they adequately reflect current understandings of appropriate restoration and rehabilitation techniques.

(k) ***Procedure for designation of local historic structures and sites.***

(1) ***Application process.*** Application forms for designation of local historic structures and local historic sites shall be submitted to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then filed with the City Clerk.

(2) ***Public hearing at Historic Preservation Commission.***

a. Notice of public hearing for designation of local historic structures and local historic sites shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.

b. At least ten (10) days prior to such hearing, the Community and Economic Development Department shall notify the alderperson of the aldermanic district and property owners of record and owners of property in whole or in part situated within a one hundred (100) foot radius of the nominated structure or site, as listed in the Office of the City Assessor.

c. The Historic Preservation Commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and review records as it deems necessary.

(3) ***Action by the Historic Preservation Commission.*** After the close of the public hearing, the Historic Preservation Commission shall review the criteria in subsection (i) a., b., c., d. and e. of this section and either recommend approval or denial of the proposed local historic structure designation or local historic site designation to the Community and Economic Development Committee, unless time is extended by agreement between the Historic Preservation Commission and the owner or owner's agent in charge of the property.

(4) ***Action by the Community and Economic Development Committee.*** After receiving and reviewing the report and recommendation of the Historic Preservation Commission, the Community and Economic Development

Committee may either approve or deny the proposed local historic structure designation or local historic site designation, or refer the matter back to the Historic Preservation Commission. The Community and Economic Development Committee's recommendation and report to approve or deny such designation shall be forwarded to the Common Council who will make the final decision.

(5) ***Action by the Common Council.***

a. After receiving and reviewing the report and recommendation of the Community and Economic Development Committee, the Common Council shall either approve or deny the proposed local historic structure designation or local historic site designation, or refer the matter back to the Historic Preservation Commission.

b. The City Clerk shall send written notice of the action taken by the Common Council to the property owner(s) or owner's agent, Community and Economic Development Department, Inspections Supervisor and the City Assessor.

(l) ***Procedure for designation of local historic districts.***

(1) ***Historic district designation criteria.*** For preservation purposes, the Historic Preservation Commission shall select geographically defined areas within the city of Appleton to be designated as a local historic district and shall, in cooperation with the property owner(s) or owner's agent prepare a Historic Preservation Plan for each area. A local historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the city of Appleton, after review of the criteria in subsection (i) a., b., c., d. and e. of this section.

a. ***Local Historic Preservation Plan.*** Each local historic preservation plan shall include the following:

1. a brief description of the district,

2. identification of the current property owners of record, of the contributing structures,

3. identification of the uses/functions of each property in the district,

4. a legal description of the district boundaries,

5. a map showing the legal boundaries of the district,

6. current photographs of the contributing structures,

7. a historical/cultural and architectural analysis supporting the historic/cultural significance of the district, and

8. a statement of preservation objectives and specific guidelines for future historic preservation alterations, historic preservation repairs or demolition activities within the district.

(2) ***Application process.*** Application forms for local historic district designations shall be submitted to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application, the Local Historic Preservation Plan and supporting materials are then filed with the City Clerk.

(3) ***Informal public hearing at Historic Preservation Commission.*** At least ten (10) days prior to such hearing, the Community and Economic Development Department shall notify the alderperson of the aldermanic district or districts, owners of record within the proposed local historic district and owners of property in whole or in part situated within a one hundred (100) foot radius of the nominated local historic district, as listed in the Office of the City Assessor. The notice of informal public hearing shall identify the purpose, date, time and place of the informal public hearing.

(4) ***Action by the Historic Preservation Commission.*** After the close of the informal public hearing, the Historic Preservation Commission shall review the criteria in subsection (i) a., b., c., d. and e. of this section and either recommend approval or denial of the proposed local historic district designation and adoption of the proposed Local Historic Preservation Plan to the Community and Economic Development Committee, unless time is extended by agreement between the Historic Preservation Commission and the owner(s) or owner's agent in charge of the property.

(5) ***Action by the Community and Economic Development Committee.*** After receiving and reviewing the report and recommendation of the Historic Preservation Commission, the Community and Economic Development Committee may either approve or deny the proposed local historic district designation and adopt the proposed Local Historic Preservation Plan, or refer the matter back to the Historic Preservation Commission. The Community and Economic Development Committee's recommendation and report to approve or deny such designation and adoption of the Local Historic Preservation Plan shall be forwarded to the Common Council who will make the final decision.

(6) ***Action by the Common Council.***

a. Notice of public hearing for designation of local historic districts and adoption of the Local Historic Preservation Plan shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.

b. At least ten (10) days prior to such hearing, the City Clerk shall notify the alderperson of the aldermanic district or districts, owners of record within the proposed local historic district, and owners of property in whole or in part situated within a one hundred (100) foot radius of the nominated local historic district, as listed in the Office of the City Assessor.

c. After receiving and reviewing the report and recommendation of the Community and Economic Development Committee, the Common Council shall either approve or deny the proposed local historic district designation and the proposed Local Historic Preservation Plan, or refer the matter back to the Historic Preservation Commission. Designation of the local historic district shall constitute adoption of the proposed Local Historic Preservation Plan prepared for that local historic district and denotes the implementation of said plan.

d. The City Clerk shall send written notice of the action taken by the Common Council to the property owners or owner's agent, Community and Economic Development Department, Inspections Supervisor and the City Assessor.

(m) ***Recognition of locally designated historic structures, historic sites and historic districts.*** At such time as a locally designated historic structure, historic site or historic district has been properly designated, the Historic Preservation Commission, in cooperation with the property owner(s) or owner's agent, may allow a suitable plaque, marker or other appropriate identifier declaring that such property is a local historic structure, local historic site, local historic district, or a contributing structure.

(n) ***Certificate of Appropriateness provision: Regulation for exterior construction, reconstruction, historic preservation alteration and demolition.***

(1) No owner or owner's agent in charge of a local historic structure, local historic site or contributing structure shall be issued a permit by the Division of Inspections for any work identified in subsection (n)(2) a. and b. of this section, unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission.

(2) An owner or owner's agent in charge of a local historic structure, local historic site or contributing structure shall apply for and receive approval of a Certificate of Appropriateness from the Historic Preservation Commission prior to performing any of the following work:

a. Historic preservation alterations or demolition of all or any part of a local historic structure, local historic site or contributing structure;

b. Historic preservation alterations or demolition of any improvement upon a local historic structure, local historic site or contributing structure.

(3) ***Application process***. Application forms for a Certificate of Appropriateness shall be submitted to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then forwarded to the Historic Preservation Commission.

a. ***Standards for granting Certificate of Appropriateness for exterior construction, reconstruction and historic preservation alterations.*** In determining whether to approve or deny a Certificate of Appropriateness for a historic preservation alteration, the Historic Preservation Commission shall approve the application if one (1) or more of the following can be demonstrated:

1. In the case of a local historic structure, local historic site or a contributing structure, the proposed work would not detrimentally change, destroy or adversely affect any exterior feature of such local historic structure, local historic site, or contributing structure upon which said work is to be done;

2. In the case of the construction of a new improvement upon a local historic structure, local historic site, or a contributing structure, the exterior of such improvement would not adversely affect or be incompatible with the external appearance of other adjacent improvements on such local historic structure, local historic site or contributing structure;

3. In the case of any improvement made to a contributing structure, the proposed exterior historic preservation alteration shall conform to the purpose of this section and to the objectives and design criteria of the local historic preservation plan for the applicable local historic district.

b. ***Standards for granting Certificate of Appropriateness for demolition***. In determining whether to approve or deny a Certificate of Appropriateness for any demolition of all or part of a local historic structure, a local historic site or a contributing structure, the Historic Preservation Commission shall approve the application if one (1) or more of the following can be demonstrated:

1. The local historic structure or local historic site or contributing structure is in such deteriorated condition that it is not economically feasible to renovate or restore it, provided that any economic hardship or difficulty claimed by the owner or owner's agent has not been self-created or is not the result of any failure to maintain the local historic structure, local historic site or contributing structure in good repair.

2. The local historic structure, local historic site or contributing structure is of such local architectural or historical significance that its demolition would not be detrimental to the public interest and would not be contrary to the general welfare of the people of the city of Appleton and the state;

3. The denial of the demolition permit would result in the loss of reasonable and beneficial use of or economic return from the property.

(4) ***Review and decision by the Historic Preservation Commission***. The Historic Preservation Commission, within twenty-five (25) business days from the date the Certificate of Appropriateness application was accepted by the Director, shall either approve or deny the application, unless the time is extended by agreement between the Historic Preservation Commission and the owner or owner's agent in charge of the property.

(5) ***Appeals.***

a. If the Historic Preservation Commission denies the Certificate of Appropriateness, the Historic Preservation Commission shall, at the request of the owner or person in charge of such property, work with the owner or owner's agent in charge of such property in an attempt to obtain a Certificate of Appropriateness within the standards of this section.

b. In addition, if the Historic Preservation Commission denies the application for a Certificate of Appropriateness due to the proposal failing to conform to the standards for granting a Certificate of Appropriateness as identified in this section, the owner or owner's agent may appeal such decision to the Community and Economic Development Committee.

1. The owner or owner's agent in charge of such property shall file a written appeal specifying the grounds for such an appeal with the Director no later than thirty (30) days from the date of the decision of the Historic Preservation Commission. Failure by the owner or owner's agent in charge of such property to file a written appeal in accordance with the abovementioned provisions shall be deemed to constitute a withdrawal of the application for a Certificate of Appropriateness.

2. After consideration of the appeal, the Community and Economic Development Committee, by majority vote may either affirm the decision of the Historic Preservation Commission or approve the issuance of the Certificate of Appropriateness, in which case the Director shall issue the Certificate of Appropriateness.

(6) ***Other permits and approvals.*** The approval of a Certificate of Appropriateness shall not relieve the property owner or owner's agent from applying for and obtaining all necessary permits and approvals pursuant to the Municipal Code prior to the commencement of such proposed work.

(7) ***Violation; penalty.*** Failure to comply with the approved Certificate of Appropriateness or failure to obtain a Certificate of Appropriateness prior to the issuance of a building permit shall be a violation of this section. Administration and enforcement shall be as prescribed in the enforcement section of this chapter.

(o) ***Exempt work from Certificate of Appropriateness provisions.*** Historic preservation repairs not including painting, made to a local historic structure or local historic site or contributing structure may be undertaken without a Certificate of Appropriateness, provided the work involves repairs to existing exterior features of a local historic structure or local historic site, or the replacement of existing exterior features of a local historic structure, local historic site or contributing structure with like materials, and provided the work does not change the exterior appearance of the local historic structure, local historic site or contributing structure and does not require the issuance of a building permit.

(p) ***Procedure to rescind a local historic structure designation, local historic site designation and local historic district designation.***

(1) ***Application process.***

a. ***Rescind a local historic structure designation or local historic site designation.*** The property owner or owner's agent in charge of a local historic structure or local historic site shall submit an application form to rescind a local historic structure designation or local historic site designation to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then filed with the City Clerk.

b. ***Rescind a local historic district designation.*** The majority (greater than fifty percent (50%)) of the property owners and/or owner's agents in charge of a contributing structure shall submit an application form to rescind a local historic district designation and the applicable local historic preservation plan to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then filed with the City Clerk.

(2) ***Public Hearing at Historic Preservation Commission.***

a. Notice of public hearing to rescind a local historic structure designation, local historic site designation, or local historic district designation and the applicable local historic preservation plan shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.

b. At least ten (10) days prior to such hearing, the Community and Economic Development Department shall notify the alderperson of the aldermanic district, owners of record, and owners of property in whole or in part situated within a one hundred (100) foot radius of the local historic structure, local historic site or local historic district, as listed in the Office of the City Assessor.

c. The Historic Preservation Commission shall then conduct such public hearing, and in addition to the notified persons, may hear expert witnesses and review records as it deems necessary.

(3) ***Action by the Historic Preservation Commission.*** After the close of the public hearing, the Historic Preservation Commission shall review the rescission criteria in subsection (p)(3)a.1., 2., 3., and 4. of this section and either recommend approval or denial of the proposed rescission to the Community and Economic Development Committee,

a. ***Rescission Criteria.*** Rescission can occur for any one (1) or more of the following:

1. The property owner has requested the designation to be rescinded for economic hardship or health reasons;

2. For the failure to adhere to the specific standards of the historic district in which the property is located;

3. For the failure to adhere to the specific standards of the zoning district the property is located; or

4. The designated historic structure, site or district no longer meets the criteria of designation or retains the integrity necessary for designation.

(4) ***Action by the Community and Economic Development Committee.*** After receiving and reviewing the report and recommendation of the Historic Preservation Commission, the Community and Economic Development Committee may either approve or deny the proposed application to rescind a local historic site designation, local historic structure designation or local historic district designation and the applicable local historic preservation plan, or refer the matter back to the Historic Preservation Commission. The Community and Economic Development Committee's recommendation and report shall be forwarded to the Common Council who will make the final decision.

(5) ***Action by the Common Council.***

a. After receiving and reviewing the report and recommendation of the Community and Economic Development Committee, the Common Council shall either approve, deny, or postpone the proposed application to rescind a local historic site designation, a local historic structure designation or a local historic district designation and the applicable local historic preservation plan, or refer the matter back to the Historic Preservation Commission.

b. The City Clerk shall send written notice of the action taken by the Common Council to the property owner(s) or owner's agent, Community and Economic Development Department, Inspections Supervisor and the City Assessor.

(q) ***Building permit.***

(1) No building permit shall be issued by the Division of Inspections for historic preservation alteration, demolition or removal of a nominated local historic structure, local historic site, or a structure identified as contributing to a nominated local historic district, from the initial meeting date when the Historic Preservation Commission has been presented with a nomination through the date of final disposition of the nomination by the Common Council. No building permit shall all be issued for the following reasons: historic preservation alteration, removal or demolition. An exception shall be permitted when historic preservation alteration, repair, removal or demolition is authorized by formal resolution of the Common Council as necessary for public health, welfare or safety. In no event shall the delay be for more than sixty (60) days.

(Ord 139-95, §1, 12-20-95, Ord 45-00, §1, 6-10-00; Ord 98-12, §1, 10-9-12)

**Editor's Note:** Article XVII Historic Preservation was repealed and recreated via ordinance 98-12 adopted by the Common Council on October 3, 2012, published October 8, 2012, effective October 9, 2012.

**Secs. 23-652 – 23-699. Reserved.**

## ARTICLE XVIII. SMALL WIND ENERGY SYSTEMS.

### Sec. 23-700. Small wind energy systems.

(a) ***Purpose.*** The purpose of this ordinance is to oversee the permitting of small wind energy systems and preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a small wind energy system (per Wis. Stat. §66.0401).

(b) ***Definitions.*** See §23-22 Definitions of this ordinance under "small wind energy systems".

(c) ***Development standards.*** Small wind energy systems are accessory uses and shall be a special use in all residential districts and a permitted accessory use in all other zoning districts:

(1) ***Setbacks.*** A wind tower for a small wind system shall be set back a distance equal to its total height from:

a. Any right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the right-of-way. Such permission shall be in a form acceptable for recording in the county Register of Deeds office for the parcel on which the tower is located. A copy of the recorded form shall be provided to the City prior to building permit issuance.

b. Any overhead utility lines, that are within the falling arc of the entire small wind energy system plus ten (10) feet unless written permission is granted by the affected utility. Such permission shall be in a form acceptable for recording in the county Register of Deeds office for the parcel on which the tower is located. A copy of the recorded form shall be provided to the City prior to building permit issuance.

c. All property lines, unless written permission is granted from the affected land owner or neighbor. Such permission shall be in a form acceptable for recording in the county Register of Deeds office for the parcel on which the tower is located. A copy of the recorded form shall be provided to the City prior to building permit issuance.

(2) ***Access.***

a. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

b. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground.

(3) ***Electrical wires.*** All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall not be suspended in the air.

(4) ***Lighting.*** A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

(5) ***Appearance, color and finish.*** The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless otherwise indicated in the building permit.

(6) ***Signs.*** All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system shall be prohibited.

(7) ***Code compliance.*** A small wind energy system including tower shall comply with all applicable federal, state and/or local construction and electrical codes.

(8) ***Utility notification and interconnection.*** Small wind energy systems that connect to the electrical utility shall comply with the Public Service Commission of Wisconsin's Rule 119, "Rules for Interconnecting Distributed Generation Facilities."

(9) ***Standards for met towers.*** Met towers shall be permitted under the same standards, permit requirements, restoration requirements and permit procedures as a small wind energy system.

(d) ***Permit requirements.***

(1) ***Permits.*** All required permits, including but not limited to, building and electrical permits, shall be obtained prior to the installation of a small wind energy system.

(2) ***Documents.*** The building permit application shall be accompanied by a site plan which includes the following:

a. Property lines and physical dimensions of the property;

b. Location, dimensions, and types of existing structures on the property;

c. Location of the proposed wind system tower;

d. The right-of-way of any public road that is contiguous with the property;

e. Any overhead utility lines;

f. Wind systems specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed);

g. Tower foundation plans and specifications;

h. Tower plans and specifications.

(e) ***Site plan review.*** Small wind energy systems require a site plan review and approval process and shall comply with all applicable standards and regulations as identified in §23-570. Site Plan Review and Approval, of this ordinance.

(f) ***Fees.*** The application for a building permit for a small wind energy system must be accompanied by the fee required for a building permit for a permitted accessory use.

(g) ***Expiration.*** A permit issued pursuant to this ordinance shall expire if:

(1) The small wind energy system is not installed and functioning within twenty-four (24) months from the date the permit is issued; or,

(2) The small wind energy system is out of service or otherwise unused for a continuous twelve (12) month period.

(h) ***Abandonment.***

(1) A small wind energy system that is out-of-service for a continuous twelve (12) month period will be deemed to have been abandoned. The Building Inspection Supervisor may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from Notice receipt date. The Building Inspection Supervisor shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.

(2) If the small wind energy system is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator from the tower at the owner's sole expense within three (3) months receipt of Notice to Abandonment. If the owner fails to remove the wind generator from the tower, the Building Inspection Supervisor may pursue a legal action to have the wind generator removed at the owner's expense.

(i) ***Building permit procedure.***

(1) An owner shall submit an application to the Building Inspection Supervisor for a building permit for a small wind energy system. The application must be on a form approved by the Building Inspection Supervisor and must be accompanied by two (2) copies of the site plan identified in (d)(2) above.

(2) The Building Inspection Supervisor shall issue a building permit or deny the application within one (1) month of the date on which the application is received.

(3) The Building Inspection Supervisor shall issue a building permit for a small wind energy system if the application materials show that the proposed small wind energy system meets the requirements of this ordinance.

(4) If the application is approved, the Building Inspection Supervisor will return one signed copy of the application with the permit and retain the other copy with the application.

(5) If the application is rejected, the Building Inspection Supervisor will notify the applicant in writing and provide a written statement of the reason why the application was rejected. The applicant may appeal the Building Inspection Supervisor's decision pursuant to Chapter 68 Wis. Statutes. The applicant may resubmit if the deficiencies specified by the Building Inspection Supervisor are resolved.

(6) The owner shall conspicuously post the building permit on the premises so as to be visible to the public at all times until construction or installation of the small wind energy system is complete, and full use authorized as signed by pertinent authority.

(j) ***Site plan review procedure.*** Prior to obtaining a building permit an owner/applicant shall obtain site plan approval as required by §23-570. Site Plan Review and Approval of this ordinance.

(k) ***Violations.*** It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with manufacturer's requirements and this ordinance or with any condition contained in a special use permit and a building permit issued pursuant to the ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt.

(l) ***Administration and enforcement.***

(1) This ordinance shall be administered by the Building Inspection Supervisor or other official as designated.

(2) The Building Inspection Supervisor or designee may enter any property for which a building permit has been issued under this ordinance to conduct an inspection to determine whether the condition stated in the permit have been met.

(3) The Building Inspection Supervisor may issue orders to abate any violation of this ordinance.

(4) The Building Inspection Supervisor may issue a citation for any violation of this ordinance.

(5) In addition to the above §23-69 Enforcement of this ordinance shall apply.

(Ord 73-11, §1, 3-8-11)

## ARTICLE XIX. SHORELAND ZONING

### Sec. 23-750. Statutory authorization.

(a) This ordinance is adopted pursuant to the authorizations in §62.233 of the Wisconsin Statutes for villages and cities.

(b) The Appleton Common Council determines that uncontrolled development and use of the shorelands of this municipality would impair the public health, safety, convenience, general welfare and tax base.

### Sec. 23-751. Definitions.

As used in this article of the zoning ordinance, the following terms shall have the meanings indicated:

***Navigable waters*** means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under s. 281.31(2)(d) Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder shoreland ordinances required under s. 59.692, Stats., and this chapter do not apply to lands adjacent to farm drainage ditches if:

(a) Such lands are not adjacent to a natural navigable stream or river;

(b) Those parts of such drainage ditches adjacent to such lands were nonnavigable streams before ditching or had no previous stream history; and

(c) Such lands are maintained in nonstructural agricultural use.

***Ordinary high-water mark*** means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.

***Principal building*** means a building which contains the primary use of the lot, as contrasted to accessory structure, building or use. In any residential zone a dwelling shall be deemed to be the principal building on the lot.

***Shorelands*** has the meaning given in §59.692(1)(b) of the Wisconsin Statutes.

***Shoreland setback area*** has the meaning given in §59.692(1)(bn).

***Shoreland zoning district*** means a zoning district comprised of shorelands that are subject to the provisions of Sec. 23-752.

### Sec. 23-752. Jurisdiction.

The jurisdiction of this chapter shall include all the shorelands of the City which are:

(a) Within 1,000 feet of the ordinary high water mark of navigable lakes, ponds or flowages. Lakes, ponds, or flowages in the City shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources' publication "Surface Water Resources of Outagamie County" or shown on U.S. Geological Survey Quadrangle maps. If evidence to the contrary is presented, the Director of Public Works shall make the initial determination whether or not the lake, pond, or flowage in question is navigable under the laws of the State. The Director of Public Works shall also make the initial determination of the location of the Ordinary High Water Mark.

(b) Within 300 feet of the ordinary high water mark of navigable rivers or streams. For the purposes of this subsection, rivers and streams in the City shall be presumed to be navigable if they are designated under one of the following categories on the Official Shoreland Zoning District Map:

(1) Navigable Stream

(2) Probable Navigable Stream

(3) Probable Non-Navigable Stream

If evidence is presented that the stream is Non-Navigable, then the Director of Public Works shall make the initial determination of whether or not the stream is navigable under the laws of the State. The Director of Public Works shall also make the initial determination of the location of the Ordinary High Water Mark.

**Sec. 23.753. Shoreland zoning district boundaries.**

The Official Shoreland Zoning District Map is hereby adopted and made part of this chapter. The boundaries of the shorelands shall be depicted on this map as defined in Section 23-751. Copies of the map shall be available for public viewing in the Department of Public Works.

**Sec. 23-754. Requirements.**

(a) There shall be established a shoreland setback area of at least fifty (50) feet from the ordinary high water mark (this could be greater than fifty (50) feet).

(b) The principal building may be constructed or placed within the shoreland area if all of the following apply:

(1) The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building.

(2) The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or thirty-five (35) feet from the ordinary high water mark, whichever distance is greater.

(c) A person who owns shoreland property that contains vegetation, shall maintain that vegetation in a vegetative buffer zone along the entire shoreline of the property and extending thirty-five (35) inland from the ordinary high water mark of a navigable water, except as provided in subsection (2).

(d) If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation the owner of the shoreland property may remove the vegetation, except that if the owner removes all of the vegetation in the vegetative buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.

(e) The person who is required to maintain or establish a vegetative buffer zone under paragraph (c) above, may remove all of the vegetation in a part of that zone in order to establish a viewing or access corridor that is no more than thirty (30) feet wide for every one hundred (100) feet of shoreland frontage and that extends no more than thirty-five (35) feet inland from the ordinary high water mark.

**Sec. 23-755. Zoning agency.**

(a) The Director of Public Works shall:

(1) Review and advise the governing body on all proposed amendments to this article, maps and text.

(b) This Director of Public Works shall not

(1) Grant variances to the terms of the ordinance in place of action by the Board of Appeals; or

(2) Amend the text or zoning maps in place of official action by the governing body.

**Sec. 23-756. Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this chapter is required by a standard in Wis. Admin. Code ch. NR 115 and where the meaning of the chapter provision is unclear, the provision shall be interpreted in light of the Wis. Admin. Code ch. NR 115 standards in effect on the date of the adoption of the ordinance from which this chapter is derived or in effect on the date of the most recent text amendment to this chapter.

**23-757. Rules for interpretation of district boundaries.**

Where uncertainty exists as to the boundary of the Shoreland District as shown on the Official Zoning Map, the following rules shall apply:

(a) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines;

(b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(c) Boundaries indicated as approximately following City limits shall be construed as following such City limits;

(d) Boundaries indicated as following railroad lines shall be construed to be the centerline of the railroad right-of-way;

(e) Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines;

(f) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (e) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

(g) Boundaries indicated as dividing a lot or plot of land shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

(h) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (a) through (g) above, the Director of Public Works shall interpret the district boundaries.

**23-758. Applicability.**

This article does not apply to lands annexed to the City prior to May 7, 1982.
(Ord 54-14, §1, 7-22-14)

# Chapter 24

## Erosion and Sediment Control

Authority ..... 24-1
Purpose ..... 24-2
Reserved ..... 24-3 – 24-9
Applicability and jurisdiction ..... 24-10
Applicability ..... 24-10(a)
Jurisdiction ..... 24-10(b)
Reserved ..... 24-11 – 24-14
Definitions ..... 24-15
Reserved ..... 24-16 – 24-19
Technical standards ..... 24-20
Design, criteria, standards and specifications ..... 24-20(a)
Other standards ..... 24-20(b)
Reserved ..... 24-21 – 24-23
Performance standards for non-permitted sites ..... 24-24
Responsible party ..... 24-24(a)
Requirements ..... 24-24(b)
Location ..... 24-24(c)
Implementation ..... 24-24(d)
Alternate requirements ..... 24-24(e)
Performance standards for permitted sites ..... 24-25
Responsible party ..... 24-25(a)
Plan ..... 24-25(b)
Erosion and other pollutant control requirements ..... 24-25(c)
Location ..... 24-25(d)
Alternate requirements ..... 24-25(e)
Reserved ..... 24-26 – 24-29
Permitting requirements, procedures and fees ..... 24-30
Permit required ..... 24-30(a)
Permit application and fees ..... 24-30(b)
Review and approval of permit application ..... 24-30(c)
Performance security ..... 24-30(d)
Permit requirements ..... 24-30(e)
Permit conditions ..... 24-30(f)
Permit duration ..... 24-30(g)
Maintenance ..... 24-30(h)
Reserved ..... 24-31 – 24-34
Erosion and sediment control plan, statement and amendments ..... 24-35
Erosion and sediment control plan ..... 24-35(a)
Erosion and sediment control plan statement ..... 24-35(b)
Amendments ..... 24-35(c)
Reserved ..... 24-36 – 24-39
Fee schedule ..... 24-40
Reserved ..... 24-41 – 24-44
Site inspections ..... 24-45
Reserved ..... 24-46 – 24-49
Enforcement and penalties ..... 24-50
Reserved ..... 24-51 – 24-54
Appeals ..... 24-55
Reserved ..... 24-56 – 24-59
Severability ..... 24-60

**Sec. 24-1. Authority.**

(a) This ordinance is adopted under the authority granted by §62.234, Wis. Stats. This ordinance supersedes all provisions of any ordinance previously enacted under §62.23, Wis. Stats., that relates to erosion and sediment control. Except as otherwise specified in §62.234 Wis. Stats., §62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

(b) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the City of Appleton.

(c) The City of Appleton hereby designates the Director of Public Works or his/her designee as the administering authority to enforce the provisions of this ordinance.

(d) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:

(1) Wisconsin Department of Natural Resources administrative rules, permits or approvals, including those authorized under §281.16 and §283.33, Wis. Stats.

(2) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Sec. 24-2. Purpose.**

The City of Appleton acknowledges that runoff from land disturbing construction activity and improper land management carries sediment and other pollutants to the waters of the state.

It is the purpose of this ordinance to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion and sediment discharge; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing activity to waters of the state within the City of Appleton.

It is also the purpose of this ordinance to meet the performance standards in subchapters III and IV of Ch. NR 151, Wis. Adm. Code and to meet the requirements for construction site pollutant control in the General Permit to Discharge under the Wisconsin Pollutant Discharge Elimination System WPDES Permit No. WI S050075-2 administered by the Wisconsin Department of Natural Resources (WDNR).

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-3 – 24-9. Reserved.**

**Sec. 24-10. Applicability and jurisdiction.**

(a) ***Applicability***.

(1) This ordinance applies to all land disturbing activities within the City of Appleton except as provided under sub. (3).

(2) Land disturbing activities meeting any one of the following are required to prepare a plan and obtain a permit:

a. Building on lots in subdivisions, certified survey maps or unplatted lands.

b. Land disturbing activities involving grading, removal of protective ground cover or vegetation, excavation, land filling, scraping or other land disturbing activity affecting a surface of two thousand (2,000) square feet or more.

c. Land disturbing activities involving excavation or filling or a combination of excavating and filling affecting two hundred (200) cubic yards or more of soil, dirt, sand or other excavation or fill material.

d. Land disturbing activities involving street, highway, road or bridge construction, enlargement, relocation or reconstruction.

e. Land disturbing activities involving the laying, repairing, replacing or enlarging of an underground pipe, wire, cable or facility for a distance of three hundred (300) feet or more.

f. Land disturbing activities within protective areas as defined in City of Appleton Municipal Code Sec. 20-312(f).

g. Routine ditch maintenance for a continuous distance of one hundred (100) feet or more.

h. Notwithstanding the previously listed applicability requirements, this ordinance applies to any sites which, in the opinion of the City of Appleton, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that cause undue erosion, that increases water pollution by scouring or the transportation of particulate matter, or that endangers property or public safety.

(3) This ordinance does not apply to the following:

a. Land disturbing construction activity that includes the construction of one- (1-) and two- (2-) family residential dwellings that are not part of a larger common plan of development or sale and that result in less than one (1) acre of disturbance. These construction sites are regulated by the Wisconsin Department of Safety and Professional Services under s. SPS 321.125 Wis. Adm. Code.

b. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under Chapter 40, Code of Federal Regulations, part 122, for land disturbing activity.

c. Nonpoint discharges from agricultural facilities and practices.

d. Nonpoint discharges from silviculture activities.

e. Activities conducted by a state agency, as defined under §227.01 (1), Wis. Stats., but also including the office of the district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under §281.33 (2), Wis. Stats.

(b) ***Jurisdiction***.

(1) This ordinance applies to land disturbing activities located within the boundaries of the City of Appleton.

(2) *County and town ordinances*. This ordinance supercedes any county or town erosion and sediment control ordinance for lands annexed to the City after the effective date of the county's or town's ordinance, except when the county's or town's ordinance is more restrictive than this ordinance; then the more restrictive provisions set forth in the county or town

ordinance shall become part of this ordinance and apply to the annexed lands. In such cases, the City may grant a variance from the more restrictive requirements provided that the criteria for a variance as set forth in the county ordinance is met.

(3) *Waivers.* Requests to waive the erosion and sediment control requirements, or a portion thereof, shall be submitted to the City of Appleton, in writing, with the application and fee, for review. Written waivers may be granted administratively by the City for erosion and sediment control requirements that are required by the City if it is demonstrated to the satisfaction of the City that it is reasonable to expect that the objectives of this ordinance will be met without an erosion and sediment control plan or portion thereof.

(4) *Applicability of maximum extent practicable.* Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the City of Appleton's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other completing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

(Ord 180-04, §1, 1-1-05; Ord 181-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16)

**Secs. 24-11 – 24-14. Reserved.**

**Sec. 24-15. Definitions.**

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

***Administering authority*** means the Director of Public Works, or a designee.

***Agricultural facilities and practices*** has the meaning in §281.16(1), Wis. Stats.

***Average annual rainfall*** means a calendar year of precipitation, excluding snow, which is considered typical. An average annual rainfall for Green Bay, 1969 (March 29 - November 25) is applicable for the City of Appleton.

***Best management practice*** or ***BMP*** means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff.

***Business day*** means a day the offices of the City of Appleton are routinely and customarily open for business.

***Cease and desist order*** means a court-issued order to halt land disturbing activity that is being conducted without the required permit or not in conformance with an existing permit.

***City*** means the City of Appleton.

***Common plan of development or sale*** means a development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one (1) plan. A common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

***Construction site*** means an area upon which one (1) or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one (1) common plan of development.

***Design storm*** means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall. Rainfall amounts for 24-hour design rainfall events in Appleton are: 100-year, 5.50 inches; 10-year, 3.51 inches; 5-year, 3.01 inches; 2-year, 2.45

inches, and 1-year 2.14 inches. The distribution shall be NOAA Atlas 14 MSE4.

***Erosion*** means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

***Erosion and sediment control plan*** means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

***Final stabilization*** means that all land disturbing activities at the site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least seventy percent (70%) of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

***Land disturbing activity*** means any man-made alteration resulting in a change in the topography, existing vegetative or non-vegetative soil cover, or drainage pattern, that may result in runoff and lead to an increase in soil erosion and movement of sediment. Land disturbing activities include, but are not limited to, clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, an unstable pipe outfall, or an unstable slope.

***Landowner*** means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of stormwater BMPs on the property.

***Maximum extent practicable*** means the highest level of performance that is achievable, but is not equivalent to a performance standard, taking into account the best available technology, cost effectiveness and other competing issues such as human welfare, endangered and threatened resources, historic properties, and geographic features, pursuant to Sec. 20-10(b)(4) of the Appleton Municipal Code.

***Performance standard*** means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

***Permit*** means a written authorization made by the City of Appleton to the applicant to conduct land disturbing activity.

***Pollutant*** has the meaning given in §283.01(13), Wis. Stats.

***Pollution*** has the meaning given in §281.01(10), Wis. Stats.

***Responsible party*** means any person holding fee title to the property or other entity performing services to meet the requirements of this ordinance through a contract or other agreement.

***Runoff*** means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

***Performance security*** means cash, or an irrevocable letter of credit submitted to the City of Appleton by the responsible party to assure that requirements of the ordinance are carried out in compliance with the approved erosion and sediment control plan and to recover any costs incurred by the City for designing, engineering, preparation, checking and review of plans and specifications, regulations and ordinances, and legal, administrative and fiscal work undertaken to assure and implement such compliance.

***Permit application fee*** means a sum of money paid to the City of Appleton by the responsible party for the purpose of recouping expenses incurred by the City in administering the permit.

***Sediment*** means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

***Silviculture activity*** means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

***Site*** means the entire area included in the legal description of the land on which the land disturbing activity is proposed in the permit application or has occurred.

***Stop work order*** means an order issued by the City of Appleton, which requires that all construction activity on the site be stopped.

***Stormwater conveyance system*** means any method employed to carry stormwater runoff within and from a land development or redevelopment activity to the waters of the state. Examples of methods include: swales, channels and storm sewers.
(Ord 182-11, §1, 1-1-12)

***Technical standard*** means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

***Transportation facility*** means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under §85.095(1)(b), Wis. Stats. Transportation facility does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to §281.33, Wis. Stats.

***Waters of the state*** has the meaning in §283.01(20), Wis. Stat.
(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-16 – 24-19. Reserved.**

**Sec. 24-20. Technical standards.**

(a) ***Design criteria, standards and specifications.*** All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:

(1) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of Chapter NR 151, Wis. Adm. Code.

(2) Soil loss prediction tools (such as the Universal Soil Loss Equation [USLE] or its successors RUSLE and RUSLE2) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.

(b) ***Other standards.*** Other technical standards not identified or developed in sub. (a), may be used provided that the methods have been approved by the City of Appleton.
(Ord 180-04, §1, 1-1-05; Ord 183-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16)

**Secs. 24-21 – 24-23. Reserved.**

**Sec. 24-24. Performance standards for non-permitted sites.**

(a) ***Responsible party***. The responsible party shall comply with this section.

(b) ***Requirements***. Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

(1) The deposition of soil from being tracked onto streets by vehicles.

(2) The discharge of sediment from disturbed areas into on-site storm water inlets.

(3) The discharge of sediment from disturbed areas.

(4) The discharge of sediment from drainage ways that flow off the site.

(5) The discharge of sediment by dewatering activities.

(6) The discharge of sediment eroding from soil stockpiles existing for more than seven (7) days.

(7) The transport by runoff of chemicals, cement and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.

(c) ***Location***. The BMPs used to comply with this section shall be located so that treatment occurs before runoff leaves the site or enters a storm conveyance system, any drainage channel or waters of the state.

(d) ***Implementation***. The BMPs used to comply with this section shall be implemented as follows:

(1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.

(2) Erosion and sediment control practices shall be maintained until final stabilization.

(3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.

(4) Temporary stabilization activity shall commence when land disturbing activities cease and will not resume for a period exceeding fourteen (14) calendar days.

(5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

(6) All off-site deposits occurring as a result of a storm event shall be cleaned up by the end of the next working day. All other off-site deposits occurring as a result of land disturbing activities shall be cleaned up by the end of the workday. Flushing is not allowed.

(e) ***Alternate requirements***. The City of Appleton may establish erosion and sediment control requirements more stringent than those set forth in this section if the City determines that an added level of protection is needed to protect resources.
(Ord 184-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16)

**Sec. 24-25. Performance standards for permitted sites.**

(a) ***Responsible party.*** The responsible party shall implement an erosion and sediment control plan, developed in accordance with Sec. 24-35, that incorporates the requirements of this section.

(b) ***Plan.*** A written site specific erosion and sediment control plan shall be developed in accordance with Sec. 24-35 and implemented for each construction site.

(c) ***Erosion and other pollutant control requirements.*** The plan required under sub. (b) shall include the following:

(1) Erosion and sediment control practices shall be used to prevent or reduce all of the following:

a. The deposition of soil from being tracked onto streets by vehicles.

b. The discharge of sediment from disturbed areas into on-site storm water inlets.

c. The discharge of sediment from disturbed areas into adjacent waters of the state.

d. The discharge of sediment from drainage ways that flow off the site.

e. The discharge of sediment by dewatering activities.

f. The discharge of sediment eroding from soil stockpiles existing for more than seven (7) days.

g. The discharge of sediment from erosive flows at outlets and in downstream channels.

h. The transport by runoff of chemicals, cement and other building compounds and materials from the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.

i. The transport by runoff of untreated wash water from vehicle and wheel washing from the construction site. Wastewaters, such as concrete truck washout, shall be properly managed to limit the discharge of pollutants.

(2) For permitted sites with less than one (1) acre disturbed activity, BMPs that, by design, achieve to the maximum extent practicable, a reduction of eighty percent (80%) of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the site has undergone final stabilization. No person shall be required to exceed an eighty percent (80%) sediment reduction to meet the requirements of this paragraph.

(3) For permitted sites with one (1) acre or more disturbed area, BMPs that, by design, discharge no more than five (5) tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization, as determined by the WDNR construction site soil loss and sediment discharge guidance.

(4) Erosion and Sedimentation BMPs may be combined to meet the requirements of this section. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing activity, or other appropriate mechanism. The method of calculating the percent reduction in sediment shall be a method approved by the City of Appleton.

(5) No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with MEP.

(6) Notwithstanding sub. (2) and (3), if BMPs cannot be designed and implemented to meet these requirements, the plan shall include a written and site-specific explanation as to why the requirements are not attainable and how the sediment load shall be reduced to the maximum extent practicable.

(7) *Preventative measures*. The plan shall incorporate all of the following:

a. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.

b. Minimization of soil compaction and preservation of topsoil.

c. Minimization of land disturbing construction activity on slopes of twenty percent (20%) or more.

d. Development of spill prevention and response procedures.

(8) All off-site deposits occurring as a result of a storm event shall be cleaned up by the end of the next working day. All other off-site deposits occurring as a result of land disturbing activities shall be cleaned up by the end of the workday. Flushing is not allowed.

(d) ***Location.*** The BMPs used to comply with this section shall be located so that treatment occurs prior to runoff leaving the site or entering the storm conveyance system, any drainage channel or waters of the state.

(e) ***Implementation***. The BMPs used to comply with this section shall be implemented as follows:

(1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in

accordance with plan developed under Sec. 24-35.

(2) Erosion and sediment control practices shall be maintained until final stabilization.

(3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.

(4) Temporary stabilization activity shall commence when land disturbing activities cease and will not resume for a period exceeding fourteen (14) calendar days.

(5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

(f) ***Alternate requirements.*** The City of Appleton may establish erosion and sediment control requirements more stringent than those set forth in this section if the City determines that an added level of protection is needed to protect sensitive resources.
(Ord 180-04, §1, 1-1-05; Ord 185-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16)

**Secs. 24-26 – 24-29. Reserved.**

**Sec. 24-30. Permitting requirements, procedures and fees.**

(a) ***Permit required.*** No responsible party may commence any land disturbing activity subject to this ordinance without first receiving approval of an erosion and sediment control plan for the site and a permit from the City of Appleton.

(b) ***Permit application and fees.*** The responsible party desiring to undertake a land disturbing activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of Sec. 24-35 and shall pay an application fee to the City of Appleton. By submitting an application, the applicant is authorizing the City of Appleton to enter the site to obtain information required for the review of the erosion and sediment control plan.

(c) ***Review and approval of permit application.*** The City of Appleton shall review any complete permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:

(1) Within twenty (20) business days of the receipt of a complete permit application, as required by sub. (b), the City of Appleton shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.

(2) If the permit application and plan are approved, the City of Appleton shall issue the permit.

(3) If the permit application or plan is disapproved, the City of Appleton shall state in writing the reasons for disapproval.

(4) The City of Appleton may request additional information from the applicant. If additional information is submitted, the City of Appleton shall have twenty (20) business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.

(5) Failure by the City of Appleton to inform the permit applicant of a decision within twenty (20) business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(d) ***Performance security.*** The City of Appleton may, at its discretion, require the submittal of a cash escrow, irrevocable letter of credit, or performance security prior to issuance of the permit to ensure that the practices are installed and maintained by the responsible party as required by the approved erosion and sediment control plan and any conditions attached to the permit. The amount of the installation performance security shall be determined by the City of Appleton, not to exceed the total estimated construction cost of the erosion and sediment control practices approved under the permit unless otherwise specified in the permit. The amount of any required maintenance performance security shall be determined by the City of Appleton. Any performance securities shall contain forfeiture provisions for failure to complete work specified in the plan.

Conditions for the release of performance security are as follows:

(1) The installation performance security shall be released in full only upon submission of "as built plans" and written certification by a professional engineer registered in the State of Wisconsin that the practice(s) were installed in accordance with the approved plan and other applicable provisions of this ordinance. The City of Appleton may make provisions for a partial pro-rata release of the performance security based on the completion of various development stages including the final inspection of landscaping material.

(2) The maintenance performance security, minus any costs incurred by the City of Appleton to conduct required maintenance, design, engineering, preparation, checking and review of designs, plans and specifications; supervision and inspection to ensure that construction is in compliance with applicable plans, specifications, regulations and ordinances; and legal, administrative and fiscal work undertaken to assure and implement such compliance, shall be released at such time that the responsibility for practice maintenance is passed on to another private entity, via an approved maintenance agreement, or to the City of Appleton.

(e) ***Permit requirements.*** All permits shall require the responsible party to:

(1) Notify the City of Appleton no less than two (2) business days prior to commencing any land disturbing construction activity.

(2) Notify the City of Appleton of completion of any BMPs within two (2) business days after their installation.

(3) Obtain permission in writing from the City of Appleton prior to any modification pursuant to Sec. 24-35 of the erosion and sediment control plan.

(4) Install all BMPs as identified in the approved erosion and sediment control plan.

(5) Maintain and repair all road drainage systems, storm conveyance systems, BMPs and other facilities, both on and off site, identified in the approved erosion and sediment control plan.

(6) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log.

(7) Inspect the BMPs within twenty-four (24) hours after each rain of 0.5 inches or more and at least once each week. Make needed repairs, install additional BMPs as necessary and document the findings of the inspections in an erosion control log kept on site with the date of inspection, the name of the person conducting the inspection, a description of the present phase of the construction, a description of any repairs needed and documentation of the completed repairs.

(8) *Winter dormant inspection requirements*. When a permitted construction site is shut down and dormant over the winter season, the applicant shall be exempt from weekly inspections as required in Sec. 24-30(e)(7) upon approval of the Director of Public Works. In order for a permitted site to be classified as winter dormant, the applicant must install erosion control measures to the satisfaction of the Director of Public Works, provide an inspection of these measures and then cease all construction activities except for minor maintenance activities. Once a site is classified as winter dormant by the Director of Public Works, inspections are only required within twenty-four (24) hours of a rain or thaw event as determined by the Director of Public Works. If at any time construction resumes or an erosion control failure occurs

at the site, the site shall lose the winter dormant classification and the applicant must resume normal inspection.

(9) *Documentation of inspection*. When required by the City of Appleton, erosion control inspections, including any repairs needed and/or actions taken at the site, shall be documented on the City of Appleton online erosion control self-reporting system. The permittee will be given access to this website, which contains documentation and forms for use in the erosion control inspections. Digital photographs of each of the erosion control practices and the site conditions shall be submitted and shall be required to meet the minimum inspection requirements of this section.

(10) Allow the City of Appleton to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the plan. Keep a copy of the erosion and sediment control plan at the construction site.

(f) ***Permit conditions.*** Permits issued under this section may include conditions established by City of Appleton in addition to the requirements set forth in sub. (e), where needed to assure compliance with the performance standards in Sec. 24-25.

(g) ***Permit duration.*** Permits issued under this section shall be valid for a period of one (1) year, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance.

(h) ***Maintenance***. The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization and final acceptance by the City of Appleton. Upon failure to perform the necessary maintenance of the erosion control practices, the City of Appleton retains the right to perform maintenance and/or repairs. The costs shall be assessed to the responsible party.

(i) All sites covered under this ordinance shall implement a long-term stormwater management plan per Wis. Adm. Code s. NR 216.47. For sites not subject to the Stormwater Management Standards and Planning Ordinance in Article VI of Chapter 20 of the Appleton Municipal Code, a stormwater management acknowledgement form, accepting the long-term stormwater management requirements, shall be required prior to receiving an erosion and sediment control permit.

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-31 – 24-34. Reserved.**

**Sec. 24-35. Erosion and sediment control plan, statement and amendments.**

(a) ***Erosion and sediment control plan.***

(1) An erosion and sediment control plan shall be prepared and submitted to the City of Appleton Department of Public Works unless the project is required to also submit a site plan. If a site plan is required, the complete erosion and sediment control permit application and appropriate fee shall be submitted to the City of Appleton Community Development Department with the site plan submittal.

(2) The complete erosion and sediment control plan shall be submitted in both hard copy and .pdf format.

(3) The erosion and sediment control plan shall be prepared by a person who holds a registration issued by the Wisconsin Department of Regulation and Licensing in one (1) of the following categories:

a. Architect.

b. Engineer.

c. Land Surveyor.

d. Landscape Architect.

(4) The erosion and sediment control plan shall be designed to meet the performance standards in Sec. 24-25 and other requirements of this ordinance.

(5) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:

a. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's contact at such firm. The application shall also include start and end dates for construction.

b. Description of the site and the nature of the land disturbing activity, Sites of one (1) acre or more shall include the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.

c. The intended sequence of land disturbing construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date when clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, establishment of permanent vegetation and removal of erosion and sediment controls.

d. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.

e. For sites less than one (1) acre of disturbed area, include BMPs meeting the provisions of Sec. 24-25(c)(2).

f. For sites with one (1) acre or more of disturbed area, provide calculations per WDNR Soil Loss Guidelines per Sec. 24-25(c)(3).

g. Location and description of the existing surface soil as well as subsoils, as indicated by USDA Natural Resource Conservation Service Soil Survey information.

h. Depth to groundwater, as indicated by USDA Natural Resources Conservation Department soil survey information.

i. Name of the immediate named receiving water.

(6) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than one hundred (100) feet per inch and at a contour interval not to exceed two (2) feet.

a. Existing topography, vegetative cover, natural and engineered drainage systems, roads, and surface waters. Lakes, streams, wetlands, channels,

ditches and other watercourses on the site and on adjacent lands shall be shown. Any identified 100-year flood plains, flood fringes, floodways, and flood storage areas shall also be shown.

b. Boundaries of the parcel and the construction site.

c. Drainage patterns and approximate slopes before and after major grading activities.

d. Areas of soil disturbance.

e. Location, dimensions and descriptions of major structural and non-structural controls identified in the erosion and sediment control plan.

f. Location of areas where stabilization BMPs will be employed.

g. Areas that will be vegetated following construction.

h. Area(s) and location(s) of wetlands on the site and locations where stormwater is discharged to a surface water or wetland, within one-quarter mile downstream of the construction site.

i. Water courses and wetlands that may affect or be affected by runoff from the site.

j. On sites one (1) acre or larger an alphanumeric or equivalent grid overlying the entire construction site map.

k. Topography and drainage network of enough of the contiguous properties to show runoff patterns onto, through, and from the site.

l. Location, dimensions and description of utilities, structures and pavements.

m. Area(s) used for infiltration of post-construction stormwater runoff.

(7) Each erosion and sediment control plan shall include a description of appropriate control BMPs that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The erosion and sediment control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, the following minimum requirements:

a. Description of interim and permanent stabilization practices, including a BMP implementation schedule. Erosion and sediment control plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.

b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the City of Appleton, structural measures shall be installed on upland soils.

c. Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.

d. Trapping of sediment in channelized flow.

e. Staging land disturbing construction activities to limit exposed soil areas subject to erosion.

f. Protection of downslope drainage inlets where they occur.

g. Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.

h. Clean up of off-site sediment deposits.

i. Proper disposal of building and waste materials, including but not limited to designated sites for concrete truck washout.

j. Stabilization of drainage ways.

k. Control of soil erosion from stockpiles.

l. Installation of permanent stabilization practices within ten (10) days after final grading.

m. Minimization of dust to the maximum extent practicable.

(Ord 187-11, §1, 1-1-12)

(8) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

(b) ***Erosion and sediment control plan statement.*** For each land disturbing construction site identified under Sec. 24-15, an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the City of Appleton. The control plan statement shall briefly describe the site, the development schedules and the best management practices that will be used to meet the requirements of the ordinance.

(c) ***Amendments***. The applicant shall amend the plan if any of the following occur:

(1) There is a change in design, construction, operation or maintenance at the site that has the reasonable potential for the discharge of pollutants and has not otherwise been addressed in the erosion and sediment control plan.

(2) The actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.

(3) The City of Appleton notifies the applicant of changes needed in the plan.

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-36 – 24-39. Reserved.**

**Sec. 24-40. Fee schedule.**

Fees for the erosion and sediment control permits will be in such amount as may be established by the City of Appleton Common Council from time to time by separate resolution. Fees will be on file with the City Clerk.

(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-41 – 24-44. Reserved.**

**Sec. 24-45. Site inspections.**

Whenever land disturbing activities are being carried out, the City of Appleton may enter the land pursuant to the provisions of §§66.0119(1), (2), and (3), Wis. Stats.

(Ord 180-04, §1, 1-1-05; Ord 188-11, §1, 1-1-12; Ord 49-16, §1, 6-21-16)

**Secs. 24-46 – 24-49. Reserved.**

**Sec. 24-50. Enforcement and penalties.**

(a) Any land disturbing activity initiated after the effective date of this ordinance by any person, firm, association or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with these ordinance provisions.

(b) The City of Appleton shall notify the responsible party in writing of any non-complying activity. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action and additional enforcement action, which may be taken.

(c) Upon receipt of written notification from the City of Appleton, the responsible party shall make the necessary corrections within the time period established by the City of Appleton.

(d) If the violations issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the City of Appleton may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the City of Appleton plus interest and legal costs shall be billed to the responsible party.

(e) The City of Appleton is authorized to post a stop work order on all land development or redevelopment activity in violation of this ordinance, or to request the Appleton City Attorney to obtain a cease and desist order.

(f) The City of Appleton may revoke a permit issued under this ordinance for noncompliance with ordinance provisions.

(g) Any permit revocation, stop work order or cease and desist order shall remain in effect unless retracted by the City of Appleton or by a court of competent jurisdiction.

(h) The City of Appleton is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the Appleton City Attorney for the commencement of further legal proceedings.

(i) Any person, firm, association or corporation who does not comply with the provisions of this ordinance shall be subject to the general penalty provisions of the Appleton Municipal Code Sec. 1-16. Each day that the violation exists shall constitute a separate offense.

(j) Violations of this ordinance deemed to be a public nuisance shall be subject to abatement under Sec. 12-32 of the Appleton Municipal Code or compliance with this ordinance may be enforced by injunctional order in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture before resorting to injunctional proceedings.

(k) When the City of Appleton determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the erosion and sediment control plan submitted and approved pursuant to this ordinance, or has failed to comply with schedules set forth in said erosion and sediment control plan, the City of Appleton or a party designated by the City of Appleton may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The City of Appleton shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any performance or maintenance security posted pursuant to this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property.

(l) No building occupancy may be issued if there is noncompliance of any provision herein.

(m) No building permit may be issued in any subdivision when the subdivision is not in compliance with the requirements of this chapter.
(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-51 – 24-54. Reserved.**

**Sec. 24-55. Appeals**

(a) The Utilities Committee of the Appleton Common Council shall hear and recommend to Council appeals where it is alleged that there is error in any order, decision or determination made by the City of Appleton in administering this ordinance except for cease and desist orders obtained under Sec. 24-50(e).

Upon appeal, the Committee may recommend to Council relief from the provisions of this ordinance that are not contrary to the public interest or provisions of state regulations, and where owing to special conditions a literal enforcement of this ordinance will result in unnecessary hardship.

(b) ***Who may appeal.*** Appeals to the Utilities Committee of the City of Appleton may be taken by any aggrieved person or by an officer, department, board or bureau of the City of Appleton affected by any decision of the City of Appleton. Written appeals shall be filed with the City Clerk. The Utilities Committee will make a recommendation within forty-five (45) calendar days of filing of the appeal. If the Utilities Committee takes no action within forty-five (45) calendar days, the appeal will automatically be sent to Council with a recommendation for approval. Either party may file a written request for a time extension with the City Clerk.
(Ord 180-04, §1, 1-1-05; Ord 49-16, §1, 6-21-16)

**Secs. 24-56 – 24-59. Reserved.**

**Sec. 24-60. Severability**.

If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections or portion thereof of the ordinance which shall remain in full force and effect.
(Ord 180-04, §1, 1-1-0; Ord 49-16, §1, 6-21-16)

*Editor's Note: Chapter 24 was repealed and recreated by ordinance 180-04. This ordinance is effective as of January 1, 2005.

*Editor's Note: Chapter 24 was repealed and recreated by ordinance 49-16. This ordinance is effective as of June 21, 2016.

*(The next page is 2259.)*

# A


**ABANDONED PROPERTY**
Generally .....Ch. 12, Art. V

**ACCESS ROADS**
Fire apparatus access roads..... 6-68
Standards for development in floodfringe areas..... 23-253(a)(4)
Standards for granting special use permits .... 23-66(e)
Stormwater discharge volume ..... 20-312(c)

**ACCESSORY BUILDINGS**
Generally ..... 4-141
Zoning regulations ..... 23-43

**ADULT-ORIENTED ESTABLISHMENTS**
Generally..... Ch. 23, Art. XII

**ADVERTISING**
Billposting ..... 12-1
Fraudulent advertising ..... 9-2
Parking of vehicles for sale.....23-505(g)
Signs .....Ch. 23, Art. XIV
Weights and measures, generally..... Ch. 22

**AGREEMENTS**
See: CONTRACTS AND AGREEMENTS

**AGRICULTURE**
AG Agricultural District ..... 23-91

**AIR CONDITIONING**
See: HEATING AND COOLING

**AIRCRAFT**
Operation of aircraft ..... 10-7

**ALARMS AND ALARM SYSTEMS**
Apartment buildings ..... 6-61
Buildings and building regulations .....Ch. 4, Art. III
Fire alarms ..... 6-20
Generally .....Ch. 12, Art. VI
Noise, prohibited acts ..... 12-81(e)
Plan review fee structure and requirements ..... 6-71
Smoke detectors..... 6-62

**ALCOHOLIC BEVERAGES**
Demerit point system..... 9-54
Generally .....Ch. 9, Art. III, Div. 1
Possession or consumption on highway, public property lot or school grounds ..... 10-41
Licensing, generally.....Ch. 9, Art. III, Div. 2
Parks, possession of alcoholic beverages in..... 13-7
Public nuisance offending morals and decency..... 12-29(3), (5)
Salvage dealers accepting goods..... 9-398
Tattoo establishment restrictions..... 9-873(1)

**ALLEYS**
See: STREETS, SIDEWALKS AND OTHER PUBLIC WAYS

**AMENDMENTS**
Building permits, amendment to applications..... 4-68
Code [Municipal Code]..... 1-11
Floodplain zoning .....Ch. 23, Art. X
Official Map, changes and amendments to ... 16-37(d)
Zoning ..... 23-65

**AMUSEMENTS AND AMUSEMENT PLACES**
Mechanical amusement devices Ch. 9, Art. IV, Div. 2

**ANIMALS**
*See: Chapter 3, Animals*
Barking animals, public nuisances .....12-30(10)
Carcasses, public nuisances affecting health. 12-28(2)
Dead animals, solid waste collection ..... 15-33(h)
Generally..... Ch. 3, Art. I
Howling, yelping, etc. .....12-30(10)
Licensing.....Ch. 3, Art. II, Div. 2
Noise prohibited acts.....12-81(c)
Running at large ..... 12-28(7)
Wild or dangerous animals.....Ch. 3, Art. III, Div. 1

**ANNEXATIONS**
Zoning of annexed areas .....23-65(e)

**ANTENNAS**
Exemptions, permit ..... 23-41(c), (d)
Height restrictions ..... 23-43(c)(8)
Lighting.....23-53(j)(3)
Structures, permitted ..... 23-43(c)(8)
Wireless telecommunications facilities ..... .....Ch. 23, Art. XIII

**APARTMENTS**
Fire prevention requirements ..... 6-61
Sign regulations ..... 23-508(c)(15)
Solid waste container regulations..... 15-29

**ARCHERY**
Park regulations ..... 13-4(b)

**ASSEMBLIES**
Chronic Nuisance Ordinance ..... Ch. 12, Art. VII
Police Department's powers and duties .....2-376(c)
Posted occupant loads ..... 6-67
Public nuisances affecting peace and safety.12-30(13)
Unlawful assembly..... 10-8

**ASSESSOR, DEPARTMENT OF**
Created ..... 2-371

**AUTOMATIC SPRINKLER SYSTEMS**
*See: Chapter 6, Fire Prevention and Protection*
Generally ..... 6-57

**AWNINGS**
Definition..... 23-504
Public nuisances affecting peace and safety ..12-30(1)
Sidewalk awnings ..... 16-56

## B

**BADGES**
Fire Department badges ..... 6-33
Health Officer ..... 2-264
Police officers to wear..... 2-349

**BASEMENTS**
Automatic sprinkler systems, where
required..... 6-57(c)(5)
Housing regulations ..... Ch. 4, Art. IV
Nuisance regulations ..... 12-34
Open and unused basements .....12-30(12)
Sleeping areas ..... 4-240(6)

**BATTERIES**
Solid waste collection ..... 15-33(n)

**BED AND BREAKFAST ESTABLISHMENTS**
Generally..... Ch. 9, Art. VII, Div. 2
Hotel and motel room tax.....Ch. 18, Art. III, Div. 2
Parking standards .....23-172(n)
Zoning regulations ..... 23-48

**BEDROOMS**
Housing regulations ..... 4-240

**BICYCLES**
Generally.....Ch. 19, Art. V, Div. 2

**BILLBOARDS**
See: SIGNS

**BILLPOSTING**
Regulations ..... 12-1

**BOARDS, COMMITTEES & COMMISSIONS**
Board of Appeals ..... 23-63
Board of Building Inspection ..... 4-21
Board of Health.....Ch. 2, Art. III, Div. 3
Board of Heating Examiners.... Ch. 4, Art. VII, Div. 2
Board of Review ..... Charter: Art. III, Div. 3
Board of Zoning Appeals.....Ch. 4, Art. III, Div. 4
Fox Cities Transit Commission..Ch. 4, Art. III, Div. 7
Historic Preservation Commission.....
..... Ch. 23, Art. XVII, Div. 3
Library Board.....Ch. 2, Art. III, Div. 6
Parks & Recreation Committee..... 13-2
Plan Commission ..... Charter, Art. III, Div. 2
Police and Fire Commission .....Ch. 2, Art. III, Div. 5
Utilities Committee ..... 20-1

**BOATS**
Boats, operation of ..... 10-6
Park regulations .....Ch. 13

Storage and parking ..... 23-45(e)(5)

**BODY PIERCING**
Generally ..... Ch. 9, Art. XVIII

**BONDS, SURETY OR PERFORMANCE**
Central Business District street vendors ..... 9-630
Commercial solicitor ..... 9-616
Election treasurer ..... 18-51
Plumbing ..... 4-265
Walks, curbs, etc. ..... 9-33(c)(1)

**BOUNDARIES**
Ward boundaries ..... Charter: 2-3

**BUDGET**
Director of Finance duties ..... 2-237
Generally ..... 18-27

**BUILDINGS**
*See: Chapter 4, Buildings and Building Regulations*
Administration and enforcement ..... Ch. 4, Art. II
Alarms and alarm systems ..... Ch. 12, Art. VI
Automatic sprinkler systems ..... 6-57
Buildings, generally ..... Ch. 4, Art. III
Building numbering ..... 4-3
Certificate of use and occupancy ..... 4-116
Codes
State Building Code ..... 4-136
State Electrical Code adopted ..... 4-342
State Plumbing Code adopted ..... 4-262
Uniform Dwelling Code ..... 4-140
Electrical, generally ..... Ch. 4, Art. VI
Exits, housing requirements ..... 4-238
Fire limits
Construction in, general standards ..... 4-139
Fire prevention and protection regulations ..... Ch. 6
Garages and accessory buildings ..... 4-141
Housing ..... Ch. 4, Art. IV
Generally ..... Ch. 4, Art. I
Inspections ..... Ch. 4, Art. II, Div. 4
Maintenance of buildings ..... 4-1
Mechanical, generally ..... Ch. 4, Art. VII
Manufactured/mobile homes and manufactured/
mobile home communities ..... Ch. 11
Moving of buildings and structures .....
..... Ch. 4, Art. III, Div. 4
Nuisances, generally ..... Ch. 12
Housing provisions ..... 4-232
Permits ..... 4-66
Plumbing, generally ..... Ch. 4, Art. V
Rodent control ..... Ch. 7, Art. III
Building maintenance, generally ..... 4-236(12)
Sewers and wastewater disposal ..... Ch. 20, Art. III
Sewer and water main connection ..... 4-270
Signs ..... Ch. 23, Art. XIV
Smoke detectors ..... 6-62
Solid waste ..... Ch. 15
Special assessments ..... Ch. 18, Art. IV
Nuisance abatement ..... 12-33
Stop work order ..... 4-25
Streets, sidewalks and other public places ..... Ch. 16
Subdivisions ..... Ch. 17
Swimming pools ..... Ch. 4, Art. VIII
Public swimming pools ..... Ch. 9, Art. XII
Vacation of buildings, fire regulations ..... 6-7
Violations ..... 4-24

**BURNING**
*See: Chapter 6, Fire Prevention and Protection*
Open outdoor fires ..... 6-13
Permit fees ..... 6-46
Trash, rubbish, garbage, etc ..... 6-12

**BUSES**
Fox Cities Transit Commission .. Ch. 2, Art. III, Div. 7

## C


**CABLE TELEVISION SERVICE**
Generally ..... Ch. 9, Art. V

**CAMPS, CAMPING, CAMPGROUNDS**
Campgrounds, general standards in floodplain districts ..... 23-224
Park regulations ..... 13-3(e)
Recreational, educational camps and campgrounds ..... Ch. 9, Art. XV

**CATS**
*See: Chapter 3, Animals*

**CENTRAL BUSINESS DISTRICT (CBD)**
CBD street vendors ..... Ch. 9, Art. XI, Div. 3
Generally ..... 23-114
Off-street parking and loading ..... 23-172
Sign exceptions ..... 23-529(b)

**CHARITABLE SOLICITATION**
Generally ..... Ch. 9, Art. XI., Div.4

**CHARTER ORDINANCES**
Charter ordinances ..... Part I

**CHICKENS**
*See: Chapter 3, Animals*

**CHILDREN**
See: MINORS

**CHRISTMAS TREE SALES**
Generally ..... Ch. 9, Art. X, Div. 3

**CHRONIC NUISANCES / CHRONIC NUISANCE ORDINANCE**
Appeal of declaration ..... 12-147
Definitions ..... 12-141
Penalties ..... 12-146
Procedure for declaring and abatement ..... 12-145

**CITATIONS**
Ordinance violation citations ..... 1-17
Schedule of deposits ..... 1-18

**CITY CLERK**
Department created ..... 2-401
Enumeration, terms ..... Charter: 2-1
Ordinances, file documents incorporated by reference ..... 1-13

**CLEARWATER**
Clearwater separation requirements ..... 4-275

**CLOSE-OUT SALES**
Generally ..... Ch. 9, Art. X, Div. 2

**CODE OF ORDINANCES**
Municipal Code; generally ..... 1-1
*See Chapter 1 Table of Contents for specific listings*

**COFFEE SHOPS**
Restaurants/food service ..... Ch. 9, Art. VI

**COIN-OPERATED DEVICES**
Mechanical amusement devices Ch. 9, Art. IV, Div. 2

**COMBUSTIBLE/HAZARDOUS OPERATIONS**
Fire prevention, permits ..... 6-43

**COMMERCIAL DISTRICTS**
Zoning districts
C-1 Neighborhood Commercial District ..... 23-112
C-2 General Commercial District ..... 23-113
C-O Commercial Office District ..... 23-111
CBD Central Business District ..... 23-114
P Parking District ..... 23-115

**COMMERCIAL SOLICITATION**
Generally ..... Ch. 9, Art. XI, Div. 2

**COMMITTEE AND COMMISSIONS**
See: BOARDS, COMMITTEES & COMMISSIONS

**COMMODITIES**
Weights and measures ..... Ch. 22

**COMMON COUNCIL**
Adoption of ordinances ..... 2-28
Emergency management, powers and duties ..... 5-3
Form of government ..... 2-26
Licenses not requiring Council approval ..... 9-24
Taxicab licenses, approval by Council ..... 9-722(b)
Zoning administration ..... 23-61

**COMMUNITY LIVING ARRANGEMENTS (CLA) AND OTHER LIVING ARRANGEMENTS**
Generally ..... 23-52

**CONDEMNATION**
Unsafe buildings, right of condemnation ..... 4-181

**CONSTRUCTION**
*See: Chapter 4, Buildings and Building Regulations*

**CONTRACTS AND AGREEMENTS**
Contracts without bids ..... 1-10(21)
Destruction of public records ..... 2-1(c)
Maintenance agreement, stormwater management ..... 20-314
Payment of money; bonds ..... 1-10(2)
Prior contracts ..... 1-8

Street maintenance agreements.....1-10(17)
Zoning regulations, private agreements..... 23-33

**CONVENIENCE STORES**
Food and food service establishments ...Ch. 9, Art. VI
Retail food establishments.....Ch. 9, Art. VI, Div. 2

**COOLING**
See: HEATING AND COOLING

**COUNCIL**
See: COMMON COUNCIL

**COUNTY**
Emergency government services
Countywide duties.....5-6(a)
Erosion & sediment control, jurisdiction .. 24-10(b)(2)
Stormwater management, county ordinances20-311(c)
Subdivisions, subject to county review..... 17-34

**CROSS CONNECTIONS**
Prohibited..... 20-41

**CUL-DE-SACS**
Subdivision regulations.....17-25(g)

**CURBS**
Licenses, generally ..... 9-33

**CURFEW**
Loitering by minors, curfew hours..... 10-36

## D

**DAMAGE**
Fire equipment ..... 6-2
Graffiti, damage to property..... 10-38
Manufactured/mobile homes..... 11-6
Parks, damaging City property..... 13-4(h)
Public property, responsibility for costs of
damage to ..... 10-1
Streets, sidewalks, damage to..... 16-2

**DEBRIS**
Dumping, leveling of used building and fill
material..... 10-24
Public nuisances affecting peace and safety.12-30(17)

**DEDICATIONS**
Dedication and reservation of lands ..... 17-3(d)
Dedication, public sites & open spaces.Ch. 17, Art. V

**DEPARTMENTS & OTHER CITY AGENCIES**
Assessor ..... 2-400
City Clerk..... 2-401
Emergency management .....Ch. 5
Finance..... 2-398
Fire Department ..... 6-31
Human Resources ..... 2-397
Police Department..... 2-375
Public Works..... 2-395
Central Equipment Agency ..... 2-396
Inspections.....Ch. 4, Art. II, Div. 2

**DEVELOPMENT**
See: PLANNING AND DEVELOPMENT

**DISASTERS**
Emergency management regulations .....Ch. 5
Traffic regulations during disaster emergency..... 19-7

**DISCRIMINATION**
*See: Chapter 8, Fair Housing*

**DISEASE CONTROL**
Disposal of infectious material..... 15-33(k)
Disposal of hazardous/toxic waste ..... 15-33(l)

**DISTRICTS**
Aldermanic wards and districts.....Charter: 2-3
Zoning districts ..... 23-37(b)

**DOGS**
*See: Chapter 3, Animals*

**DRAINS AND DRAINAGE**
Building drains..... 4-273
Building regulations..... 4-241(b)
Discharge of..... 4-271

Erosion and sediment control ..... Ch. 24
Minor land division drainage plans..... 17-18
Plumbing regulations ..... Ch. 4, Art. V
Prohibited discharges..... 20-81
Sewers and wastewater disposal ..... Ch. 20, Art. III
Site plan requirements ..... Ch. 23, Art. XV
Stormwater management .....Ch. 20, Art. VI
Subdivision final drainage plans..... 17-13
Subdivision preliminary drainage plans..... 17-8
Subdivision "record" drainage plans ..... 17-14

**DRIVEWAYS**
Approval of plans for driveways..... 16-16
Construction or repair by owner ..... 16-60
Driveway aprons..... 16-17
Front yard parking ordinance..... 19-91
License requirements ..... 9-33
Recreational vehicles ..... 19-92
Unpaved driveways ..... 19-91

**DRUGS**
Board of Health..... Ch. 2, Art. III, Div. 3
Controlled substances, adoption of state law ..... 10-34
Marijuana, adoption of state law..... 10-32

**DUMPING**
See: DEBRIS

**DUTCH ELM DISEASE**
Regulations/generally ..... Ch. 21, Art. III

# E

**EASEMENTS**
Subdivisions, general regulations..... 17-27

**EDUCATION**
See: SCHOOLS
Camps, licenses..... Ch. 9, Art. XV, Div. 2

**ELECTIONS**
Destruction of voter record cards ..... 2-1(c)(10)
Generally..... Ch. 2, Art. VI
Opening and closing of polls..... 2-411
Ordinances calling an election ..... 1-10(16)
Precincts..... 1-10(22)
Spring primary ..... 2-412
Treasurer's bond, election..... 18-51
Wards and polling places ..... Charter: 2-3

**ELECTRICITY**
Certificate of inspection ..... 4-348
Concealment of wiring..... 4-346
Defects, liability for ..... 4-351
Exceptions for construction requirements..... 4-349
Exemption for inspections ..... 4-347
Fees ..... 4-418
Fire prevention and protection regulations..... Ch. 6
Generally..... Ch. 4, Art. VI
Licensing..... Ch. 4, Art. VI, Div. 2
Manufactured/mobile homes communities, electrical distribution systems ..... 11-78
Periodic inspection..... 4-345
Permits ..... Ch. 4, Art. VI, Div. 3
Swimming pools .....4-546(c)
State Electrical Code, adoption of..... 4-342

**EMERGENCIES**
Buildings, emergency repairs..... 4-187
Emergency powers of Health Officer
Food and food service establishments ..... 9-195
Hotels and motels ..... 9-304
Public swimming pools ..... 9-682
Recreational and educational camps and campgrounds..... 9-783
Tattoo and body piercing establishments ..... 9-864
Sewers and wastewater disposal
Emergency suspensions..... 20-183
Snow, parking ..... 19-94

**EMERGENCY MANAGEMENT**
*See: Chapter 5, Emergency Management*
Hazardous materials, discharge of ..... 6-63
Traffic regulations during disaster ..... 19-7

**EMPLOYEES**
See: OFFICERS AND EMPLOYEES

**ENGINEERS AND ENGINEERING SERVICES**
Public Works Department..... 2-395

**ENTERTAINMENT**
See: AMUSEMENT AND AMUSEMENT PLACES
Amusement and entertainment licenses, permits.....Ch. 9, Art. IV

**EQUIPMENT**
Central Equipment Agency..... 2-367

**EROSION AND SEDIMENT CONTROL**
*See: Chapter 24, Erosion Control*

**ESCORTS AND ESCORT SERVICES**
Generally ..... Ch. 9, Art. XVII

**EXCAVATIONS**
Filling and resurfacing of street excavation..... 16-40
Nuisance regulations re: dangerous excavations 12-34
Open and unguarded basements .....12-30(12)
Public nuisances affecting peace and safety 12-30(11)
Streets, sidewalks and other public ways.....Ch. 16

**EXPLOSIVES**
Collection service .....15-33(l)
Fire prevention permit requirements.....6-43(13)
Hazardous materials, discharge of..... 6-63
Sewer, prohibited discharge.....20-81(b)(1), (18)

**EXTERMINATION**
Chronic nuisance ordinance..... Ch. 12, Art. VII
Extermination, responsibility of owner.....4-236(12)
Extermination, responsibility of occupant .....4-237(d)
Fire prevention permit requirement .....6-43(8)
Rodent control .....Ch. 7, Art. III

## F

**FAIR HOUSING**
*See: Chapter 8, Human Relations*

**FALSE ALARMS**
Alarms and alarm systems ..... Ch. 12, Art. VI
Fire alarms ..... 6-20(d)

**FARMERS MARKETS**
Generally..... Ch. 9, Art. XVI

**FENCES**
Confinement of a dangerous animal.....3-132(d)(2)
Fences and walls, generally..... 23-44
Regulations ..... 4-241
Swimming pools
Protective enclosure requirements..... 4-549
Traffic
Nuisance ..... 12-30(4)
Corner..... 19-10
Zoning regulations ..... 23-44
Vision corner ..... 23-50(g), 19-10

**FINANCE**
Budget, generally ..... 18-27
Central Equipment Agency fund..... 2-367(i)
Department of, created..... 2-398
Director of Finance, generally..... Ch. 2, Art. VI
Emergency government program funding..... 5-9
Taxation and finance .....Ch. 18

**FINES, FORFEITURES AND OTHER PENALTIES**
General penalty ..... 1-16
Parking fines (violation forfeitures) ..... 19-90
Prior forfeitures/penalties not affected..... 1-8
Schedule of deposits..... 1-18

**FIRE ALARMS**
Apartment buildings..... 6-61
Alarm systems, in general..... Ch. 12, Art. VI
Generally..... 6-20
Maintenance, approval, registration..... 6-72
Plan review fee..... 6-71
Repeat violation rule ..... 6-75

**FIRE LIMITS**
Buildings, limits designated..... 4-137
Construction fire limits ..... 4-138
Construction standards generally ..... 4-139
Designated..... 4-137
Fire prevention and protection regulations.....Ch. 6
Inspection frequency ..... 6-9

**FIRE PREVENTION**
*See: Chapter 6, Fire Prevention and Protection*
Alarms
Fire alarms ..... 6-20
Generally ..... Ch. 12, Art. VI
Apartment buildings ..... 6-61
Codes and standards, adoption of ..... 6-56
Electrical systems ..... Ch. 4, Art. VI
Emergency management regulations ..... Ch. 5
Enforcement by fire chief ..... 6-3
Exit lights, apartment building requirements ... 6-61(4)
Fees, permit fees ..... 6-46
Failure to obtain permit fee ..... 6-48
Fire alarms ..... 6-20
Fire Department ..... Ch. 6, Art. II
Fire extinguishers ..... 6-16
Fire hydrants, manufactured/mobile home communities ..... 11-76
Fire limits, generally ..... 4-137
Fireworks ..... 6-66
Hazardous materials ..... 6-63
Outdoor fireplaces/open fires, etc. ..... 6-13
Permits ..... Ch. 6, Art. III
Fees ..... 6-46
Failure to obtain permit fee ..... 6-48
Required ..... 6-43
Police and Fire Commission ..... Ch. 2, Art. III, Div. 5
Smoke and heat detection devices ..... 6-62
Sprinkler systems ..... 6-57

**FIREARMS**
Discharge of dangerous weapons ..... 10-2
Facsimile firearms, generally ..... 10-41
Hunting within City limits ..... 10-2(c)
Minors, sale of dangerous weapons to ..... 10-4
State law, adoption regarding carrying of ..... 10-3

**FIREWOOD**
Generally ..... 22-15
Outside storage of wood ..... 12-36
Sale of ..... 22-15

**FIREWORKS**
Generally ..... 6-66
Park regulations ..... 13-3(i)
Permits ..... 6-43, 10-5(b)
Sale and discharge of ..... 10-5
State law, adoption of ..... 10-5(a)

**FLOOD DAMAGE PREVENTION**
Emergency management regulations ..... Ch. 5

**FLOODPLAIN**
Administration, generally ..... Ch. 23, Art. X, Div. 7
Amendments ..... Ch. 23, Art. X, Div. 8
Enforcement ..... Ch. 23, Art. X, Div. 9
Floodfringe district (FF) ..... Ch. 23, Art. X, Div. 4
Floodway district (FW) ..... Ch. 23, Art. X, Div. 3
General provisions ..... Ch. 23, Art. X, Div. 1
Nonconforming uses ..... Ch. 23, Art. X, Div. 6
Other floodplain districts ..... Ch. 23, Art. X, Div. 5
Penalties ..... Ch. 23, Art. X, Div. 9
Standards, generally ..... Ch. 23, Art. X, Div. 2
Zoning districts ..... Ch. 23, Art. X

**FLUORIDATION**
Fluoridation of water ..... 20-36

**FOOD AND FOOD SERVICES**
Farmers markets ..... Ch. 9, Art. XVI
Food and food service establishments .. Ch. 9, Art. VI
Permits, sidewalk cafes ..... 9-257
Public nuisances affecting health ..... 12-28
Sidewalk cafes ..... Ch. 9, Art. VI, Div. 4

**FORFEITURES**
See: FINES, FORFEITURES AND OTHER PENALTIES

**FRANCHISES**
Cable television service ..... Ch. 9, Art. V

**FRAUD**
Advertising ..... 9-2
Commercial solicitors ..... 9-621(1)
Defraud of merchant in return of merchandise .. 10-29
Tax returns ..... 18-75
Weights and measures, prohibited acts ..... Ch. 22

**FRONT YARD PARKING**
Parking in front yard and on terraces ..... 19-91

**FURNACES**
Generally ..... Ch. 4, Art. VII
Oil burners and equipment ..... 4-522
Outdoor wood-fired furnace ..... 6-13

# G


**GAMBLING**
Alcoholic beverage establishment regulations.9-52(4)
Mechanical amusement devices.Ch. 9, Art. IV, Div. 2
Nuisances, gambling houses .....12-29(1)
Nuisances, gambling devices .....12-29(2)
State law adoption..... 10-18

**GARAGES**
Generally ..... 4-141
Permitted accessory uses and structures .....23-43(e)
Zoning design requirements..... 23-51
Zoning, *see individual districts*.....Ch. 23

**GARBAGE AND TRASH**
*See: Chapter 15, Solid Waste*
Burning trash, rubbish, garbage, etc. ..... 6-12
Collection regulations, placement..... 15-31
Collection services and types of material ..... 15-33
Park regulations ..... 13-80
Public nuisances
Affecting health.....12-28(3)
Affecting peace and safety .....12-30(17)
Scavenging prohibited ..... 15-32

**GAS / GASES**
Collection service, hazardous waste .....15-33(l)
Gas-fired furnace ..... 4-524
General sewer use requirements .....
.....Ch. 20, Art. III, Div. 2
Hazardous materials, discharge of ..... 6-63
Public nuisances affecting health.....12-28(9)

**GLASS**
Park regulations .....13-3(k)
Solid waste regulations .....Ch. 15, Art. II

**GOING OUT OF BUSINESS SALES**
See: CLOSE-OUT SALES

**GO-KARTS**
Operation of.....10-25(b)

**GOLF**
Park regulations .....13-4(q)

**GOVERNMENT**
Emergency government .....Ch. 5
Mayor-alderperson form of government..... 2-26

**GRADES AND GRADING**
Altering grade of public ways..... 16-3
Streets, sidewalks and other public ways.....Ch. 16
Subdivision regulations.....Ch. 17

**GRAFFITI**
Defacement or damage of property..... 10-38

**GRASS**
Collection of.....15-33(d), (f)
Height limit .....12-58(c)
Weeds and wild growth.....Ch. 12, Art. III
Yard neglect .....12-59(c)
Yard waste in public streets ..... 16-18

**GROCERY STORES**
Retail food establishments ..... Ch. 9, Art. VI, Div. 2
Weights and measures .....Ch. 22

**GROUNDWATER**
Prohibited discharges .....20-81(b)(12)
Stormwater management
Generally .....Ch. 20, Art. V
Standards ..... Ch. 20, Art. VI

# H


**HANDICAPPED PERSONS**
Parking space zoning regulations..... 23-172(f)
Parking fines ..... 19-90(c)

**HAZARDOUS MATERIALS / WASTES**
Civil liability.....6-63(h)
Discharge of/generally..... 6-63
Hazardous waste discharge notification..... 20-149
Prohibited discharge standards ..... 20-81
Solid waste collection service..... 15-33(g), (l)
Spill notification .....6-63(b)

**HEALTH AND SANITATION**
*See: Chapter 7, Health and Sanitation*
Animals, general regulations .....Ch. 3
Board of Health.....Ch. 2, Art. III, Div. 3
Burning trash, rubbish, garbage, etc. ..... 6-12
CBD street vendors, conduct of business ..... 9-636(c)
Chronic nuisance ordinance..... Ch. 12, Art. VII
Commercial solicitors, conduct of business... 9-621(c)
Food and food service establishments ...Ch. 9, Art. VI
Health Officer .....Ch. 2, Art. IV, Div. 4
Lodging establishments ..... Ch. 9, Art. VII
Plumbing regulations .....Ch. 4, Art. V
Public nuisances affecting health..... 12-28
Rodent control .....Ch. 7, Art. III
Solid waste.....Ch. 15-1
Swimming pools
Building code regulations.....Ch. 4, Art. VIII
Public swimming pools ..... Ch. 9, Art. XII
Tattoo and body piercing establishments.....
.....Ch. 9, Art. XVIII
Unsafe buildings .....Ch. 4, Art. III, Div. 3
Violations, demerit points..... 9-54
Water utility regulations .....Ch. 20, Art. II
Weeds and wild growth .....Ch. 12, Art. III

**HEARINGS**
Dangerous animal hearings..... 3-131
Health license hearings .....Ch. 9
Taxicab license hearings.....9-722(b)
Weights and measures license hearing ..... 22-46

**HEATING AND COOLING**
General regulations ..... Ch. 4, Art. VII, Div. 1
Installation standards ..... Ch. 4, Art. VII, Div. 5
License..... Ch. 4, Art. VII, Div. 3
Permits ..... Ch. 4, Art. VII, Div. 4

**HEATING OIL**
Generally ..... 22-16, 22-17

**HEIGHT**
Accessory structures ..... 23-43
CBD street vendor units.....9-636(h)
Fences and walls ..... 23-44(a)(1)
Grass and weeds..... 12-58
Ground sign height..... 23-524
Manufactured/mobile home communities buffer
strips ..... 11-89
Obstruction at intersection ..... 19-10
Room height requirements ..... 4-240(2)
41 and 441 freeway signs.....23-529(c)
Zoning, *see individual districts* .....Ch. 23

**HIGHWAYS**
See: STREETS, SIDEWALKS AND OTHER PUBLIC WAYS

**HISTORIC PRESERVATION**
Generally.....Ch. 23, Art. XVII

**HOLIDAYS**
Parking regulations ..... 19-87
Suspension of fees on holidays ..... 19-108

**HOME OCCUPATIONS**
Zoning regulations ..... 23-45

**HORNS**
Noise, prohibited acts.....12-81(e)
Train whistles/horns..... 12-84

**HOTELS, MOTELS AND OTHER TOURIST ROOMING HOUSES**
Generally.....Ch. 9, Art. VII

**HOUSING REGULATIONS**
CLA and other living arrangements..... 23-52
Electrical regulations..... Ch. 4, Art. VI
Fire prevention and protection regulations.....Ch. 6
Housing generally ..... Ch. 4, Art. IV
Mechanical (heating and cooling)..... Ch. 4, Art. VII
Plumbing regulations .....Ch. 4, Art. V
Unsafe buildings .....Ch. 4, Art. III, Div. 3

**HUNTING**
Generally.....10-2(c)

# I


**ICE**
Public nuisances affecting peace and safety 12-30(15)
Streets and sidewalks, ice removal ..... 16-10

**IMPERSONATION**
Police officers ..... 10-12
Weights and measures, prohibited acts .....22-7(1)

**IMPOUNDMENT**
Abandoned vehicles .....12-102(b)
Animals ..... 3-16

**INCINERATORS**
Burning of trash/rubbish ..... 6-12
Outdoor furnaces ..... 6-13

**INDECENCY AND OBSCENITY**
Adult-oriented establishments ..... Ch. 23, Art. XVII
Indecent conduct, adoption of state law..... 10-19
Obscene materials, adoption of state law..... 10-22
Public nuisances offending morals and decency 12-29

**INDUSTRY / INDUSTRIAL**
Districts ..... Ch. 23, Art. VII
Noise regulations .....Ch. 12, Art. IV
Sign regulations .....23-561(b)
Sewer/wastewater disposal .....Ch. 20, Art. III, Div. 1
Solid waste collection ..... 15-33(c)

**INFESTATION**
Housing regulations .....Ch. 4, Art. IV
Rodent control .....Ch. 7, Art. III

**INSPECTIONS**
Automatic sprinkler systems.....6-57(g)
Cross connections .....20-41(c)
Electrical inspections .....Ch. 4, Art. VI
Fire inspection required before occupancy ..... 6-11
Fire inspections ..... 6-9
Public nuisances/abatement ..... 12-32
Smoke detectors ..... 6-62
*See: Chapter 4, Buildings and Building Regulations*
*See: Chapter 9, Licenses, Permits and Business Regulations*

**INSURANCE**
Insurance requirements walks, curbs, etc.....9-33(c)
Taxicabs ..... 9-723
Towing services ..... 9-749

**INTERSECTIONS**
Obstruction of view at intersection ..... 19-10

**INTOXICATING LIQUOR**
See: ALCOHOLIC BEVERAGES

**INVESTIGATIONS**
Fire investigations ..... 6-8
License applicant investigations
Class B license holders ..... 9-77
CBD street vendors..... 9-629
Commercial solicitation..... 9-615
Farmers market ..... 9-818
Salvage dealers ..... 9-388

## J

**JUNK, JUNK DEALERS**
See: SALVAGE DEALERS / YARDS

**JUVENILES**
See: MINORS

## K

**KENNELS**
Licenses, generally ..... 3-53
Special use permit..... 23-66(h)(12)

**KEY BOXES**
Generally ..... 6-18

## L

**LAND**
See: PROPERTY

**LANDSCAPING**
Maintenance ..... 12-59
Zoning regulations ..... Ch. 23, Art. VXI

**LEAVES**
Solid waste ..... 15-33(m)

**LIABILITY / LIABILITIES**
Dangerous animals ..... 3-132(g)
Electricity, liability for defects in work ..... 4-351
Hazardous materials discharge, civil liability . 6-63(h)
Plumbing plans, liability for defects in work ..... 4-324
Street occupancy permit..... 9-264
Tax on sale or close of business ..... 18-71

**LIBRARY**
Library Board.....Ch. 2, Art. III, Div. 3
Theft of library material, adoption of state law.. 10-31

**LICENSES AND PERMITS**
*See: Chapter 9, Licenses, Permits and Business Regulations*
Agent or employee transfers and issuance to or use by..... 9-27
Alarms and alarm systems ..... Ch. 12, Art. VI
Alcoholic beverage establishments license ..... .....Ch. 9, Art. III, Div. 2
Animal licenses .....Ch. 3, Art. II
Applications ..... 9-22
Bed and breakfast establishments ..... .....Ch. 9, Art. VII, Div. 2
Boat operation permits ..... 10-6(h)
Body piercing and tattoo establishments .....Ch. 9, Art. VXIII, Div. 2
Building permit .....Ch. 4, Art. III, Div. 2
Administration.....Ch. 4, Art. II, Div. 3
Moving of buildings .....Ch. 4, Art. III, Div. 4
CBD street vendor permit ..... Ch. 9, Art. XI, Div. 3
Charitable solicitation permit.... Ch. 9, Art. XI, Div. 4
Christmas trees, sale of .....Ch. 9, Art. X, Div. 3
Close-out sales permit.....9-547, 9-548
Commercial solicitation license Ch. 9, Art. XI, Div. 2
Concrete work (walks, curbs, etc.)..... 9-33
Council approval – licenses not requiring..... 9-24
Denial, appeal of ..... 9-26
Destruction of public records ..... 2-1(a)(4)
Electricity
License requirements..... Ch. 4, Art. VI, Div. 2
Permit requirements..... Ch. 4, Art. VI, Div. 3
Erosion and sediment control..... 24-30
Expiration ..... 9-28
Farmers markets..... Ch. 9, Art. XVI

Fees
Miscellaneous license fees ..... 9-30
Refund of fees and replacement fees..... 9-32
Fire prevention permits..... Ch. 6, Art. III
Fireworks permits, sale and discharge .10-5(b), 23-54
Food and food service establishments ...Ch. 9, Art. VI
Hotels, motels and other tourist rooming houses
..... Ch. 9, Art. VII
Room tax permit..... 18-70
Issuance generally; display ..... 9-23
Kennel licenses ..... 3-53
Mayor, special issuance by ..... 9-25
Mechanical amusement devices license.....
.....Ch. 9, Art. IV, Div. 2
Mechanical systems (Heating, Ventilating and Air Conditioning (HVAC))
License requirements ..... Ch. 4, Art. VII, Div. 3
Permit requirements ..... Ch. 4, Art. VII, Div. 4
Miscellaneous licenses..... 9-31
Manufactured/Mobile home communities
..... Ch. 11, Art. II, Div. 2
Moving of buildings and structures ..... 4-206, 4-207
Noise, re: nuisance variance permit..... 12-83
Parking permits..... 19-113
Payment of taxes, judgments and fines prior to issuance .....9-23(c)
Plumbing permit ..... Ch. 4, Art. V, Div. 2
Private water well operation permit.....20-42(e)
Public swimming pool ..... Ch. 9, Art. XII
Secondhand goods dealer..... Ch. 9, Art. VIII, Div. 3
Stormwater permit .....Ch. 20, Art. VI, Div. 3
Street, sidewalks, etc.....Ch. 16
Swimming pools ..... 4-546
Tattoo and body piercing establishments
..... Ch. 9, Art. XVIII, Div. 2
Wastewater discharge ...Ch. 20, Art. III, Divs. 4 and 5
Weights and measures ..... Ch. 22, Art. II

**LINEAR MEASURE**
*See: Chapter 22, Weights and Measures*

**LIQUOR**
Alcoholic beverages..... Ch. 9, Art. III, Div. 1
Licenses .....Ch. 9, Art. III, Div. 2

**LITTERING**
Littering ..... 16-8

**LOITERING**
See: TRESPASSING
Generally ..... 10-40
Minors, loitering/curfew ..... 10-36
Off-street parking facilities ..... 19-114

**LOTS**
Subdivision regulations..... Ch. 17
Zoning, *see individual districts*.....Ch. 23

**LUMBER**
Permits re: fire prevention.....6-43(b)(2)
Storage ..... 6-60
Weights and measures..... 22-9

## M


**MAINTENANCE**
Buildings ..... 4-1
Fire protection systems ..... 6-57, 6-73
Housing ..... 4-236
Landscape re: nuisances ..... 12-59
Stormwater maintenance agreement ..... 20-314
Swimming pools ..... 4-552
Vegetation ..... Ch. 21, Art. II, Div. 2

**MANUFACTURED/MOBILE HOMES AND COMMUNITIES**
*See: Chapter 11, Manufactured and Mobile Homes and Manufactured and Mobile Home Communities*
Electrical regulations ..... Ch. 4, Div. VI
Fire prevention and protection regulations ..... Ch. 6
Plumbing regulations ..... Ch. 4, Art. V
Sewers and wastewater disposal ..... Ch. 20, Art. III
Solid waste ..... Ch. 15

**MAPS**
See: SURVEYS, MAPS AND PLATS

**MARIJUANA**
Adoption of state law regarding possession of .. 10-32

**MAYOR**
Emergency management regulations ..... Ch. 5
Enumeration, terms, etc. ..... Charter: 2-1
Form of government ..... 2-26
Licenses & permits, special issuance by Mayor .. 9-25
Salary ..... 2-217(b)

**MECHANICAL AMUSEMENT DEVICES**
Licenses ..... Ch. 9, Art. IV, Div. 2

**MECHANICAL SYSTEMS**
(Heating, Ventilating and Air Conditioning (HVAC))
Generally ..... Ch. 4, Art. VII

**MEDICAL WASTE**
Definition ..... 20-69
Sewers and wastewater disposal
Prohibited discharges ..... 20-81(b)(14)

**MEDICINES**
See: DRUGS

**MERCHANDISE**
Close-out sales ..... Ch. 9, Art. X, Div. 2
Fraudulent advertising ..... 9-2
Outdoor display ..... 23-46
Return of ..... 10-29

**METERS, PUMPS (PETROLEUM, ETC.)**
*See: Chapter 22, Weights and Measures*

**MINORS**
Harboring minors ..... 10-35
Loitering by minors, curfew hours ..... 10-36
Maximum penalty for minors ..... 1-18(b)
Salvage dealers, acceptance of goods from minors ..... 9-398
Possession/use of cigarettes and tobacco products ..... 10-37
General penalty ..... 1-16
Sale of dangerous weapons to ..... 10-4
Tattoo and body piercing limitations ..... 9-872
Truancy ..... 10-42

**MONUMENTS**
Requirements for minor land division ..... Ch. 17, Art. II, Div. 4
Survey monuments ..... 17-3(e)

**MOTOR VEHICLES AND TRAFFIC**
Abandoned vehicles ..... Ch. 12, Art. V
Bicycles and play vehicles ..... Ch. 19, Art. V
Intersections
Regulations for specific streets ..... Ch. 19, Div. II
Keys, leaving in unattended vehicle ..... 19-8
Licensed, unlicensed outside of building ..... 12-30(18)
Noise, prohibited acts ..... 12-81
Parking meters ..... Ch. 19, Art. III, Div. 2
Parking, stopping and standing
Generally ..... Ch. 19, Art. III
Advertising purposes, parking of vehicle .23-505(g)
Parks, operation of vehicles ..... 13-9
Snow emergencies ..... 19-94
Snowmobiles, motor-driven cycles operation ..... 10-25
Speed limits ..... Ch. 19, Art. I, Div. 2
Streets, regulations for specific streets .. Ch. 19, Art. II
Trains, obstruction of street by ..... 19-9
Truck Routes
Specific streets ..... Ch. 19, Art. IV
Emergency routes ..... 19-7
Weight limitations, imposition of ..... 16-39

**MOVING OF BUILDINGS AND STRUCTURES**
Generally ..... Ch. 4, Art. III, Div. 4

## N


**NOISE**
Generally .....Ch. 12, Art. IV

**NONPROFIT ORGANIZATIONS**
Charitable solicitation .....Ch. 9, Art. XI, Div. 4

**NUISANCES**
*See: Chapter 12, Nuisances for more specific listings*
Abatement..... 12-32, 12-33
Animals.....Ch. 3
Bill posting ..... 12-1
Buildings and building regulations ..... 4-232
Chronic nuisance ordinance..... Ch. 12, Art. VII
Discharge of drains and sewers..... 4-271
Discharge of hazardous materials ..... 6-63
Dutch Elm Disease, declaration of nuisance.....
.....Ch. 21, Art. III
Generally affecting
Health ..... 12-28
Morals and decency..... 12-29
Peace and safety ..... 12-30
Pest/rodent control .....Ch. 7, Art. III
Sewers and wastewater disposal ..... 20-81(b)(9)
Storage, nuisance abatement.....15-29(d)
Weeds and wild growth .....Ch. 12, Art. III
Zoning violations ..... 23-311

**NUMBERS / NUMBERING**
Building numbering ..... 4-3
Manufactured/Mobile home, numbering of units11-87

**NURSING HOMES**
Definition..... Ch. 4, Art. IV


## O


**OBSCENITY**
See: INDECENCY AND OBSCENITY

**OBSTRUCTIONS**
Assemblies .....12-30(13)
Nuisances .....Ch. 12
Streets and sidewalks, obstructing passage ..... 16-9
Traffic obstructions ..... 12-30(4)
Vision corner..... 23-50(g), 23-601(f)(2), (3)

**OCCUPANT, OCCUPANCY**
Fire inspection required before occupancy ..... 6-11
Posted occupant load..... 6-67

**ODORS**
Public nuisances affecting health ..... 12-28(9)

**OFFENSES (MISCELLANEOUS)**
*See: Chapter 10 for specific offenses*
Alarms and alarm systems ..... Ch. 12, Art. VI
Nuisance regulations .....Ch. 12
Smoking ban ..... Ch. 7, Art. IV

**OFFICERS AND EMPLOYEES**
Emergency Management Coordinator ..... 5-5
Finance Director..... Ch. 2, Art. IV, Div. 3
Fire Chief ..... 6-32
Health Officer ..... Ch. 2, Art. IV, Div. 4
Human Resources Director ..... Ch. 2, Art. IV, Div. 2
Humane Officer ..... 3-22
Librarian..... 2-153
Mayor..... 2-26
Parks and Recreation Director .. Ch. 2, Art. IV, Div. 7
Police and Fire Commission .....Ch. 2, Art. III, Div. 5
Public Works Director ..... Ch. 2, Art. IV, Div. 6
Residency policy ..... 2-216
Salaries
Board of Zoning Appeals ..... 2-122
Certain ordinances not affected by Code... 1-10(14)
Generally .....2-217(a)
Library Board ..... 2-152
Mayor ..... 2-217(b)
Police and Fire Commission..... 2-137
Sealer and Deputy Sealer ..... 22-4
Transit Commission
Officers..... 2-168
Personnel of transit system ..... 2-171
Weed Commissioner ..... 12-58

**OFFICIAL MAP**
See: SURVEY, MAPS AND PLATS

**OIL BURNERS AND OIL BURNING EQUIPMENT**
See: FURNACES
Fire prevention code ..... 6-56(c)
Generally ..... 4-522

**ORDINANCES, RESOLUTIONS, ETC.**
Adoption of ordinances..... 2-28
Destruction of public records..... 2-1(c)(9)
Ordinances not affected by Code..... 1-10
Ordinances, repealed, effect of ..... 1-9(a)

**OVERLAY DISTRICTS**
Generally ..... Ch. 23, Art. VIII

# P

**PARADES**
CBD street vendor, restrictions on use..... 9-631
Commercial solicitation, restrictions on use ..... 9-617
Sidewalk cafes, permit restrictions ..... 9-261

**PARKING**
Advertising purposes, parking of vehicle.....23-505(g)
Bicycles..... 19-193
Facilities/ramps .....Ch. 19, Art. III, Div. 2
Fines/forfeitures ..... 19-90
Front yard parking..... 19-91
General regulations .....Ch. 19, Art. III, Div. 1
Habitual parking offenders..... 19-90(j)
Loitering prohibited ..... 10-40
Lots, approval of/construction of ..... 16-16
Manufactured/Mobile home communities
Marking of parking areas..... 11-86
Off-street parking spaces ..... 11-79
Keys in unattended running vehicle prohibited.... 19-8
Meters .....Ch. 19, Art. III, Div. 2
Nighttime (No 2 a.m. to 5 a.m.) ..... 19-93
Off-street parking and loading ..... Ch. 23, Art. IX
Recreational vehicle parking..... 19-92
Taxicabs, off-street parking ..... 9-724
Traffic and vehicles.....Ch. 19, Art. III
Zoning, *see individual districts* .....Ch. 23

**PARKS AND RECREATION**
*See: Chapter 13, Parks and Recreation*
Alcoholic beverages, possession of..... 13-7
Animals in parks .....13-3(l), 13-4(e)
Archery, prohibited ..... 13-4(b)
Billposting..... 12-1
Camping.....13-3(e)
Commercial solicitors ..... 9-621(d)
Damaging City property..... 13-4(h)
Director of Parks & Recreation. Ch. 2, Art. IV, Div. 7
Fireworks, prohibited ..... 13-3(i)
Fishing ..... 13-8
Glass containers, prohibited ..... 13-3(k)
Golf, prohibited..... 13-4(q)
Motorized vehicles ..... 13-4(i)
Public trees and shrubs.....Ch. 21, Art. II, Div. 1
Public swimming pools.....Ch. 9, Art. XII
Recreational/educational campsCh. 9, Art. XV, Art. 2
Refuse disposal ..... 13-4(k)
Snowmobile operation .....13-4(c)
Vacation of public grounds during certain hours10-15
Vehicles ..... 13-9

**PAVEMENT**
License requirements ..... 9-33

**PAWNBROKERS**
Generally.....Ch. 9, Art. VIII

Secondhand goods dealers ..... 9-416

**PEDDLERS, CANVASSERS AND SOLICITORS**
CBD street vendors.....Ch. 9, Art. XI, Div. 3
Charitable solicitation.....Ch. 9, Art. XI, Div. 4
Commercial solicitation.....Ch. 9, Art. XI, Div. 2
Defraud of merchant ..... 10-29
Junkyards and secondhand goods dealers.....
.....Ch. 9, Art. VIII
Weights and measures .....Ch. 22, Div. 1

**PENALTIES**
See: FINES, FORFEITURES AND OTHER PENALTIES

**PERMITS**
See: LICENSES AND PERMITS

**PERSONNEL**
See: OFFICERS AND EMPLOYEES

**PEST CONTROL**
Buildings
Maintenance generally ..... 4-236
Responsibilities of occupant..... 4-237
Unfit for human habitation..... 4-235
Fumigation permit .....6-43(8)
Generally .....Ch. 7, Art. III
Maintenance of animal pens and enclosures..... 3-13
Manufactured/Mobile homes, responsibility of
management ..... 11-27
Public nuisances affecting health.....23-28(3)
Rodent control .....Ch. 7, Art. III
Solid waste collection guidelines..... 15-33

**PET SHOPS**
Record of sales..... 3-21

**PETS**
*See: Chapter 3, Animals*

**PICKETING**
Residential picketing ..... 10-8

**PISTOLS**
See: FIREARMS AND WEAPONS

**PLANNED DEVELOPMENT DISTRICTS**
Planned Development Overlay District .....
.....Ch. 23, Art. VI
Sign regulations .....23-561(d)

**PLANNING AND DEVELOPMENT**
Fire prevention general regulations .....Ch. 6
Manufactured/mobile homes and manufactured/
mobile home communities .....Ch. 11
Streets and sidewalks.....Ch. 16
Subdivision regulations.....Ch. 17
Swimming pools, generally.....Ch. 4, Art. VIII
Zoning regulations .....Ch. 23

**PLATS**
See: SURVEYS, MAPS AND PLATS

**PLAY VEHICLES**
Generally.....Ch. 19, Art. V, Div. 1

**PLUMBING**
Bond required for work in public right-of-way.. 4-265
Clearwater separation, inspections..... 4-275
Housing regulations ..... 4-231
Inspections, generally.....Ch. 4
Permits .....Ch. 4, Art. V, Div. 2
Plans.....Ch. 4, Art. V, Div. 3
Public sewer connections ..... 4-269
Required ..... 4-270
Sealing of unused sewer and water services ..... 4-272
Sewers, discharge of ..... 4-271
Sewers and wastewater disposal.....Ch. 20, Art. III
Swimming pools .....Ch. 4, Art. VIII, Div. 2
Unsanitary installations, corrections ..... 4-266
Water utility regulations.....Ch. 20, Art. II

**POLICE DEPARTMENT**
Abandoned property.....Ch. 12, Art. V
Alarm systems..... Ch. 12, Art. VI
Alcohol regulations .....Ch. 9, Art. III
Licensed premise law ..... 9-52
Animal ordinance, general regulations.....Ch. 3
Damage to property..... 10-23
Disorderly conduct..... 10-9
Emergency management regulations .....Ch. 5
Fire, police assistance ..... 6-4
Emergency service cost reimbursement..... 6-63(d)
Graffiti ..... 10-38
Licensing regulations (general).....Ch. 9
Noise ..... Ch. 12, Art. IV
Park rules, generally.....Ch. 13
Parking and traffic
Generally .....Ch. 19, Art. III
Overnight parking..... 19-93
Resist/obstruct officer ..... 10-10
Police and Fire Commission .....Ch. 2, Art. III, Div. 5
Police Dogs ..... 3-24
Public nuisances affecting:
Health (trash, weeds, pollution)..... 12-28
Morals/decency ..... 12-29
Peace/safety (junk, vehicles, obstructions)..... 12-30
Smoke-free indoor air enforcement ..... Ch. 7, Art. IV
Temporary parking regulations ..... 19-6
Theft..... 10-28
Traffic and vehicle regulations
Bicycles .....Ch. 19, Art. V
Crossing guards ..... 19-4
Parking regulations.....Ch. 19, Art. III
Wrecker services.....Ch. 9, Art. XIII, Div. 3

**POLITICAL SIGNS**
Generally ..... 23-508(c)(16)

**POLLS**
See: ELECTIONS

**POLLUTION**
Erosion and sediment control ..... Ch. 24
Floodplain regulations ..... Ch. 23, Art. X
Public nuisances affecting health..... 12-28(8)
Sewers and wastewater disposal ..... Ch. 20, Art. III
Smoke free indoor air ordinance..... Ch. 7, Art. IV
Stormwater regulations ..... Ch. 20, Art. V

**POOLROOMS AND BILLIARD PARLORS**
Mechanical amusement devices. Ch. 9, Art. IV, Div. 2

**PROPERTY**
Abandoned property/vehicles ..... Ch. 12, Art. V
Chronic nuisance ordinance..... Ch. 12, Art. VII
Damage to property, adoption of state law ..... 10-23
Damage public property, responsibility of costs.. 10-1
Graffiti, defacement or damage of property..... 10-38
Parks, damaging City property ..... 13-4(h)
Special assessments ..... Ch. 18, Art. IV
Trespass to land, adoption of state law ..... 10-26

**PROSTITUTION**
Offering or engaging in ..... 10-21
Public nuisances offending morals and
decency..... 12-29(1)
State law adoption..... 10-20

**PUBLIC BUILDINGS, PLACES, ETC.**
Alcoholic beverage regulations..... 10-14
Loitering ..... 10-40
Malls ..... 6-21
Notification of special public assembly events.... 6-73
Nuisances, generally ..... Ch. 12
Parks and recreation..... Ch. 13
Smoke free indoor air ordinance..... Ch. 7, Art. IV

**PUBLIC WORKS AND IMPROVEMENTS**
Board of Zoning Appeals..... Ch. 2, Art. III, Div. 2
Buildings, generally ..... Ch. 4
Certain ordinances not affected by Code ..... 1-10(11)
Director of Public Works..... Ch. 2, Art. IV, Div. 6
Electricity..... Ch. 4, Art. VI
Heating, ventilation & air conditioning (HVAC) .....
..... Ch. 4, Art. VII
Inspections ..... Ch. 4, Art. II
Nuisance regulations..... Ch. 12
Plumbing regulations ..... Ch. 4, Art. V
Public Works Department..... Ch. 2, Art. V, Div. 4
Sewers and wastewater disposal ..... Ch. 20, Art. III
Sidewalks, marking of improvements..... 16-61
Solid waste..... Ch. 15
Special assessments..... Ch. 18, Art. IV
Street improvements, permit required..... 4-165
Subdivision regulations..... Ch. 17
Water utility regulations..... Ch. 18, Art. II

**PUMPS, METERS (PETROLEUM, ETC.)**
*See: Chapter 22, Weights and Measures*

**PYROTECHNIC DEVICES**
See: FIREWORKS

# R


**RABBITS**
Animal regulations, generally ..... Ch. 3
Maximum number ..... 3-12

**RABIES**
Animal regulations, generally ..... Ch. 3
Vaccination for dogs, cats and ferrets ..... 3-18
Wearing of tag ..... 3-76

**RADIOS / RADIO TOWERS**
Amplification devices prohibited ..... 12-87
Noise, prohibited acts ..... 12-81(b)
Zoning
Accessory uses and structures ..... 23-43(c)(8)
Permits, exceptions ..... 23-41
Special use permits ..... 23-66(h)(1)
Wireless communication facilities Ch. 23, Art. XIII

**RAILROADS AND TRAINS**
Sounding locomotive whistles ..... 12-84
Street obstruction by train ..... 19-9

**REAL ESTATE**
Fair housing regulations ..... Ch. 8
Fraudulent advertising ..... 9-2
Signs
Design standard exceptions ..... 23-529(g)
Specific regulations ..... 23-508(c)(17)
Tax payments ..... 18-52

**RECORDS**
Destruction of public records ..... 2-1

**RECREATION**
See: PARKS AND RECREATION

**RECREATION AND EDUCATIONAL CAMPS AND CAMPGROUNDS**
Generally ..... Ch. 9, Art. XV
Campgrounds ..... Div. 3
Recreational and educational camps ..... Div. 2

**RECREATIONAL VEHICLES**
Parking of ..... 19-92

**RECYCLABLES**
Solid waste collection ..... Ch. 15, Art. II

**REFRIGERATORS**
Abandoned refrigerators ..... 12-35
Public nuisances affecting peace and safety 12-30(17)

**RENTALS**
Fair housing regulations ..... Ch. 8
Smoke free indoor air regulations ..... Ch. 7, Art. IV

**RESIDENCES / RESIDENTIAL AREAS**
Chronic nuisance ordinance ..... Ch. 12, Art. VII
Commercial solicitors ..... 9-621(e)
Parking in front yard ..... 19-91
Picketing ..... 10-8
Rodent control extermination regulations ..... 7-70(a)
Sign regulations ..... 23-561(a)
Solid waste collection service ..... 15-33(a)

**RESIDENTIAL DEVELOPMENT SIGNS**
Generally ..... Ch. 23, Art. XIV

**RESIDENTIAL DISTRICTS**
Generally ..... Ch. 23, Art. V
AG Agricultural district ..... 23-91
R-1A single family district ..... 23-92
R-1B single family district ..... 23-93
R-1C central city residential district ..... 23-94
R-2 two-family district ..... 23-95
R-3 multi-family district ..... 23-96
P-I public institutional district ..... 23-100
NC nature conservancy district ..... 23-101

**RESTAURANTS**
Alcohol regulations and licensing ..... Ch. 9, Art. III
Food and food service establishments ... Ch. 9, Art. VI
Licensing, generally ..... Ch. 9, Art. VI, Divs. 1 & 3
Posted occupant loads ..... 6-67
Smoke free indoor air ordinance ..... Ch. 7, Art. IV
Zoning
C-1 Neighborhood Commercial District ..... 23-112
C-2 General Commercial District ..... 23-113
Prohibited home occupation ..... 23-45(d)
Special use permits ..... 23-66(h)(6)

**RESTORATION**
Condemned building ..... 4-184
Hazardous material clean up ..... 6-63
Emergency management ..... Ch. 5
Streets
After utility installation ..... 16-15
After work in public right-of-way ..... 16-14
Unsafe building restoration ..... 4-184

**RETAIL FOOD ESTABLISHMENTS**
Generally ..... Ch. 9, Art. VI, Div. 2

**RIOTS**
Police Department's powers and duties ..... 2-376(c)

**RODENT CONTROL**
See: PEST CONTROL
Generally ..... Ch. 7, Art. III
Public nuisances affecting health ..... 12-28(3)

**ROLLER SKATES**
See: SKATEBOARDS, INLINE SKATES AND ROLLER SKATES

**ROOM TAX**
Hotel and motel room tax .....Ch. 18, Art. III, Div. 2

**ROOMING HOUSES**
See: HOTELS, MOTELS AND OTHER TOURIST ROOMING HOUSES
Generally ..... Ch. 9, Art. VII, Div. 3

**ROUTES**
Disaster – emergency routes ..... 19-7
Impose temporary routes ..... 19-6
Moving of buildings ..... 4-209
Truck routes.....Ch. 19, Art. IV

**RUMMAGE SALES**
Generally .....Ch. 23, Art. V

**RUNAWAYS**
Harboring minors..... 10-35

**RUNOFF**
Erosion and sediment control .....Ch. 24
Sewers and wastewater disposal ..... 20-81(b)(12)
Site plan review and approval.....Ch. 23, Art. VX
Stormwater management standards .....Ch. 20, Art. V
Subdivision regulations.....Ch. 17

## S

**SALES**
Abandoned vehicles ..... 12-102(f)
Alcoholic beverages.....Ch. 9, Art. III
Animals .....Ch. 3
Christmas tree sales.....Ch. 9, Art. X, Div. 3
Close-out sales and other business terminations .....Ch. 9, Art. X, Div. 2
Defective fire extinguishers ..... 6-17
Fraudulent advertising..... 9-2
Miscellaneous sales.....Ch. 9, Art. X
Rummage .....Ch. 23
*See also individual zoning districts*
Seasonal and/or holiday sales (temporary uses & structures) ..... 23-54
Weights and measures, generally.....Ch. 22

**SALVAGE DEALERS / YARDS**
Dealers .....Ch. 9, Art. VIII, Div. 2
Generally.....Ch. 9, Art. VIII, Div. 2

**SANDWICH SIGNS**
Size .....23-523(e)

**SCALES**
*See: Chapter 22, Weights and Measures*

**SCANNING**
*See: Chapter 22, Weights and Measures*

**SCAVENGING**
Solid waste placed for collection ..... 15-32

**SCHOOLS**
Alcoholic beverages, possession or consumption ..... 10-14
Commercial solicitors ..... 9-621(d)
Crossing guards..... 19-4
Facsimile firearms..... 10-41
Posted occupant loads ..... 6-68
Truancy ..... 10-42

**SEALER OR DEPUTY SEALER**
Generally.....Ch. 22

**SEARCH WARRANTS**
See: WRITS, WARRANTS AND OTHER PROCESSES

**SECONDHAND GOODS DEALERS**
See: SALVAGE DEALERS / YARDS
Generally.....Ch. 9, Art. VIII

**SEPTIC TANKS**
Plumbing regulations .....Ch. 4, Art. V
Wastewater disposal provisions ..... 20-94

**SETBACKS**
Accessory uses and structures..... 23-43
Manufactured/mobile homes, construction or alteration of attachments and accessory structures..... 11-9
Nonconforming structures, uses, characteristics 23-42
Obstruction of view at intersection by vegetation, fence, etc. ..... 19-10
Signs, setback and clearance..... 23-525
Site plan review and approval..... Ch. 23, Art. XV
Special use permits ..... 23-66
Subdivision regulations..... Ch. 17
Wireless telecommunications facilities..... ..... Ch. 23, Art. XIII
Zoning, *see individual zoning districts* ..... Ch. 23

**SEWERS AND WASTEWATER DISPOSAL**
Building sewers ..... 4-273
Certain ordinances not affected by Code .....1-10(26)
Connection to public water main required..... 4-270
Connections to public sewer ..... 4-269
Connections, public sewers required ..... 20-2
Discharge of sewers ..... 4-271
General provisions ..... Ch. 20, Art. III
Manufactured/Mobile homes and manufactured/ mobile home communities
Specifications for sewer systems..... 11-77
Use of City sewer service required..... 11-74
Nuisance regulations..... 12-28
Plumbing regulations ..... Ch. 4, Div. V
Rates and charges .....Ch. 20, Art. IV
Sealing of unused sewer ..... 4-272
Sewer and waste connection fee ..... 20-3
Special assessments .....Ch. 18, Art. IV, Div. 2
Stormwater management services.....Ch. 20, Art. V
Stormwater management, standards and planning .....Ch. 20, Art. VI
Subdivision regulations..... Ch. 17
Supervision of sewer and water services ..... 4-267
Utilities Committee..... 20-1
Water utility regulations ..... Ch. 20, Art. II

**SIDEWALKS**
See: STREETS, SIDEWALKS AND OTHER PUBLIC WAYS

**SIGNS**
Billposting .....12-1
Design standards..... Ch. 23, Art. XIV, Div. 4
Fire Department signs.....6-19
Generally ..... Ch. 23, Art. XIV
Manufactured/Mobile home community signs ...11-91
Street signs .....11-86
No smoking signs .....6-15
Number of signs.....23-522
Parking vehicle for advertising purposes.....23-505(g)
Political signs.....23-508(c)(16)
Prohibited signs .....23-505
Public nuisances affecting peace and safety .....12-30
Real estate signs ..... 23-508(c)(17)
Sandwich signs.....23-523(e)
Setback and clearance ..... 23-525
Traffic control signs, signals and devices ..... 19-5
Zoning district regulations ....Ch. 23, Art. XIV, Div. 6

**SITE PLANS**
Generally..... Ch. 23, Art. XV
Zoning, *see individual zoning districts* .....Ch. 23

**SKATEBOARDS, INLINE SKATES AND ROLLER SKATES**
Operation prohibited in certain areas ..... 19-164

**SLOT MACHINES**
Mechanical amusement devices .Ch. 9, Art. IV, Div. 2
Public nuisances offending morals and decency.....12-29(2)

**SMOKE DETECTORS**
Apartment building requirements ..... 6-61
Generally..... 6-62

**SMOKING**
Careless smoking prohibited ..... 6-14
No smoking signs..... 6-15
Smoke-free indoor air (Smoking Ban) .. Ch. 7, Art. IV
Tattoo establishment restrictions..... 9-894
Use of cigarettes and tobacco products by minors ..... 10-37

**SNOW**
Blowers, noise, prohibited acts (exception) ...12-81(d)
Parking/snow emergencies..... 19-94
Public nuisances affecting peace and safety.12-30(15)
Streets and sidewalks, snow and ice removal..... 16-10

**SNOWMOBILES**
Operation of .....10-25(a)
Parks, operation of snowmobiles .....13-4(c)

**SOLICITORS**
See: PEDDLERS, CANVASSERS AND SOLICITORS

**SOLID WASTE (GARBAGE & RECYCLABLES)**
Collection service..... 15-33
Generally..... Ch. 15
Hazardous materials discharge..... 6-63
Rates and charges.....Ch. 15, Art. III
Sewers and wastewater disposal .....Ch. 20, Art. III
Storage and collection ..... Ch. 15, Art. II
Containers..... 15-28
Placement of solid waste and recyclables..... 15-31
Recyclables ..... 15-30
Yard waste in public street ..... 16-18

**SPECIAL ASSESSMENTS**
Generally .....Ch. 18, Art. IV
Timeliness of remonstrances or petitions .....1-19
Water utility regulations ..... Ch. 20, Art. II

**SPECIAL USE PERMITS**
Generally .....23-66
Wireless telecommunications facilities, requirements .....23-422

**SPEED LIMITS**
Bicycles, obedience to speed limits .....19-189
Regulations for specific streets . Ch. 19, Art. II, Div. 2
Watercraft .....10-6(b)

**SPRING PRIMARY**
See: ELECTIONS
Generally .....2-392

**STORAGE**
Flammable liquids .....12-30(14)
Gas storage tanks .....4-524(k)
Manufactured/mobile homes, storage underneath 11-8
Manufactured/mobile homes, accessory storage buildings.....11-93
Outside storage of firewood, etc. .....12-36
Outside storage in non-residential districts.....23-46
Recyclables .....15-30
Recyclable storage .....6-43(15)
Scrap lumber and building materials .....6-60
Secondhand goods dealer, storage of goods .....9-421
Solid waste storage regulations..... Ch. 15, Art. II
Storage tanks.....6-43(16)

**STORMS**
Snow emergencies .....19-94
Snow and ice removal..... 16-10

**STORMWATER**
Appeals .....Ch. 20, Art. VI, Div. 4
Enforcement.....Ch. 20, Art. VI, Div. 4
Erosion and sediment control ..... Ch. 24
Fees .....Ch. 20, Art. VI, Div. 3
Permits .....Ch. 20, Art. VI, Div. 3
Rates and charges ..... Ch. 20, Art. V, Div. 2
Runoff, prohibited discharges..... 20-81(b)(12)
Standards and planning.....Ch. 20, Art. VI
Stormwater management services.....Ch. 20, Art. V
Subdivision regulations..... Ch. 17

**STREETS, SIDEWALKS & OTHER PUBLIC WAYS**
Alcoholic beverage possession/consumption.....10-14
Alleys, generally ..... Ch. 16
Awnings, sidewalk awnings .....16-56
Barricades .....Ch. 16, Art. I
Bicycles and play vehicles..... Ch. 19, Art. V
Buildings
Generally .....Ch. 4, Art. III
Permit requirements re: street improvements . 4-165
CBD street vendors .....Ch. 9, Art. XI, Div. 3
Certain ordinances not affected by Code .....1-10(5)
Commercial solicitation .....Ch. 9, Art. XI, Div. 2
Damage correction ..... 16-2
Driveways ..... Ch. 16, Art. I
Fire apparatus access roads ..... 6-68
Highways
Streets, sidewalks and other public ways .....Ch. 16
Traffic and vehicles .....Ch. 19
Ice removal..... 16-10
Licenses, walks, curbs and other concrete work .. 9-33
Loitering..... 10-40
Manufactured/mobile homes and manufactured/ mobile home communities .....Ch. 11
Obstruction
Passage ..... 16-9
Public nuisances affecting health .....12-28(10)
Public nuisances affecting peace and safety .....12-30(11)
Street by train ..... 19-9
Official map ..... 16-37
One-way streets..... 19-42
Parking
City parking facilities .....Ch. 19, Art. III, Div. 2
General regulations.....Ch. 19, Art. III
Permits for sidewalk construction..... 16-59
Play vehicles .....Ch. 19, Art. V
Public right-of-way, permit..... 16-12
Public trees and shrubs..... Ch. 21, Art. II and Art. III
Remonstrances, vacation of streets ..... 1-19
Sidewalks, generally .....Ch. 16, Art. III
Snow removal ..... 16-10
Solid waste .....Ch. 15
Special assessments..... Ch. 18, Art. IV
Speed limits.....Ch. 19, Art. II, Div. 2
Streets, generally.....Ch. 16, Art. II
Street vacations .....23-62(b)(2)
Subdivision regulations.....Ch. 17
Through streets..... 19-41
Traffic and vehicles, generally .....Ch. 19
Trains, obstruction of street by train ..... 19-9
Truck routes ..... Ch. 19, Art. IV
Vision obstructions
Dimensional exceptions and modifications 23-50(f)
Landscaping and screening..... 23-601(f)(2), (3)
Walks, curbs and other concrete work license ..... 9-33
Wires over streets and sidewalks .....12-30(9)

**SUBDIVISIONS**
Buildings
General regulations ..... Ch. 4
Permits, issuance of..... 17-3(h)(3)
Certified survey maps ..... Ch. 17, Art. II, Div. 4
Dedications ..... Ch. 17, Art. V
Design standards ..... Ch. 17, Art. IV
Drainage ways .....17-28
Easements .....17-27
Extraterritorial plat approval..... Ch. 17, Art. II, Div. 6
Fire prevention and protection regulations ..... Ch. 6
Generally .....Ch. 17, Art. I
Lots .....17-26
Lot line adjustment ..... Ch. 17, Art. III
Minor land division (CSM)..... Ch. 17, Art. II, Div. 4
Plats ..... Ch. 17, Art. II
Replat..... Ch. 17, Art. II, Div. 5
Signs .....Ch. 23, Art. XIV
Solid waste..... Ch. 15
Streets .....17-25
Water utility regulations ..... Ch. 20, Art. II

**SURVEYS, MAPS AND PLATS**
Arterial street map .....19-42
Building number map .....4-3
Certain ordinances not affected by Code ..... 1-10(12)
Certified survey maps ..... Ch. 17, Art. II, Div. 4
Erosion and sediment control regulations..... Ch. 24
Extraterritorial plats ..... Ch. 17, Art. II, Div. 6
Floodplain district..... Ch. 23, Art. X
Floodplain maps..... 23-206(b)
Lot line adjustment ..... Ch. 17, Art. III, Div. 1
Minor Land Division (Certified Survey Map)
..... Ch. 17, Art. II, Div. 4
Official [street] Map ..... 16-37
Official Zoning Map ..... 23-38
Parking District Map.....19-86
Plats, generally..... Ch. 17, Art. II
Requirements for "record" drainage plans.....17-14
[Snow] emergency thoroughfare map..... 19-94(d)
Street, Official Map .....16-37
Subdivisions
General regulations ..... Ch. 17
Plats..... Ch. 17, Art. II
Survey monuments ..... 17-3(e)
Through Street Map.....19-41
Zoning map
Amendments ..... 23-65(d)
Official Zoning Map .....23-38

**SWIMMING POOLS**
Permit fees, private pools..... 4-161(8)
Private swimming pools..... Ch. 4, Art. VIII
Public swimming pools..... Ch. 9, Art. XII
Swimming pool drainage ..... 20-81(b)(12)

# T

**TATTOO ESTABLISHMENTS**
Generally..... Ch. 9, Art. XVIII

**TAVERNS**
Alcoholic beverages/licenses
Classes of licenses, fees..... 9-75
Restriction on issuance ..... 9-76
Retail sales, operation of premises ..... 9-52
Posted occupant load..... 6-67
Restaurants and other eating establishments .....
.....Ch. 9, Art. VI, Div. 3
Special use permits, generally..... 23-66

**TAXATION**
Assessor Department..... Ch. 2, Art. V, Div. 7
Budget ..... 18-27
Certain ordinances not affected by Code .....1-10(7)
Claims against the City ..... 18-26
Generally..... Ch. 18
Hotel and motel room tax..... Ch. 18, Art. III, Div. 2
Real estate taxes, payment of ..... 18-52
Sanitary sewers, special assessments .....
.....Ch. 18, Art. IV, Div. 2
Special assessments..... Ch. 18, Art. IV

**TAXICABS**
See: VEHICLES FOR HIRE
Regulations, generally..... Ch. 9, Art. XIII, Div. 2

**TELECOMMUNICATIONS, WIRELESS**
Accessory uses and structures ..... 23-43
Generally.....Ch. 23, Art. XIII
Zoning, *see individual zoning districts*.....Ch. 23

**TELEVISIONS**
Accessory uses ..... 23-43(f)(1)f
Cable television service .....Ch. 9, Art. V
Permit exemptions, antennas..... 23-41(c)

**TENTS**
Accessory uses and structures ..... 23-43
Campgrounds ..... Ch. 9, Art. XV
Permits ..... 6-43(11)

**TERRACES**
Obstruction of view at intersection ..... 19-10
Front yard parking..... 19-91

**THEFT**
Generally, adoption of state law..... 10-28
Library material, adoption of state law ..... 10-31
Theft of services, adoption of state law..... 10-30

**TIMING DEVICES**
*See: Chapter 22, Weights and Measures*

**TIRES**
Recycling ..... Ch. 15, Art. II
Tire rebuilding permit ..... 6-43(3)

**TOBACCO**
Careless smoking prohibited ..... 6-14
Smoke free indoor air ordinance ..... Ch. 7, Art. IV
Use of cigarettes and tobacco products by minors ..... ..... 10-37

**TOURIST HOMES/CABINS**
See: HOTELS, MOTELS, ETC.
Hotel and motel room tax ..... Ch. 18, Art. III, Div. 2

**TOWING**
Bicycles ..... 19-195
Wrecker services ..... Ch. 9, Art. XIII, Div. 3

**TRAFFIC**
See: MOTOR VEHICLES AND TRAFFIC

**TRAILERS**
Abandoned property ..... Ch. 12, Art. V
Accessory uses and structures ..... 23-43
Campgrounds ..... Ch. 9, Art. XV, Div. 3
Front yard parking ..... 19-91
Recreational vehicle parking ..... 19-92
Zoning, *see individual zoning districts* ..... Ch. 23

**TRANSIT COMMISSION**
Generally ..... Ch. 2, Art. III, Div. 7

**TRASH**.
See: GARBAGE AND TRASH

**TREES AND SHRUBBERY**
See: VEGETATION
Christmas tree sales ..... Ch. 9, Art. X, Div. 3
Dutch Elm Disease ..... Ch. 21, Art. III
Landscaping and screening ..... Ch. 23, Art. XVI
Moving of buildings, trimming of trees ..... 4-210
Parks, injuring trees or other plants ..... 13-4(g)
Planting, maintenance, removal Ch. 21, Art. II, Div. 2
Public nuisances affecting peace and safety ..... 12-30
Public trees and shrubs ..... Ch. 21, Art. II, Div. 1
Solid waste collection/disposal of leaves ..... 15-33(m)
Traffic obstructions ..... 12-30(4)
Trimming of public trees ..... Ch. 21, Art. II, Div. 2
View at intersection, obstruction of ..... 19-10
Weeds and wild growth ..... Ch. 12, Art. III
Yard waste
Collection ..... 15-33(d)
Public streets, in ..... 16-18

**TRESPASSING**
See: LOITERING
Adoption of state law ..... 10-26
Dwellings ..... 10-27

**TRUANCY**
Contributing to truancy ..... 10-43
Habitual truancy ..... 10-42

**TRUCK ROUTES**
*See: Chapter 19, Traffic and vehicles*
Generally ..... Ch. 19, Art. IV

## U


**UNLAWFUL ASSEMBLY**
Generally .....10-8
Malls .....6-21
Notification of special public assembly events.....6-73
Posted occupant load .....6-67

**UNSAFE BUILDINGS**
Buildings, generally.....Ch. 4, Art. III, Div. 3
Public nuisances affecting peace and safety ..12-30(8)
Vacation of buildings..... 6-7

**UTILITIES**
Buildings, utilities requirements .....4-165
Cable television service .....Ch. 9, Art. V
Director of Utilities.....Ch. 2, Art. IV, Div. 10
Electricity [Electrical] regulations .....Ch. 4, Div. VI
Erosion and sediment control regulations..... Ch. 24
Generally .....Ch. 20, Art. I
Manufactured/mobile homes and manufactured/
mobile home communities ..... Ch. 11
Plumbing regulations .....Ch. 4, Art. V
Public sewer connections.....20-2
Rates and charges .....Ch. 20, Art. IV
Sewers and wastewater disposal .....Ch. 20, Art. III
Solid waste..... Ch. 15
Stormwater
Services .....Ch. 20, Art. V
Standards and planning .....Ch. 20, Art. VI
Streets, utility installations.....16-15
Subdivision regulations..... Ch. 17
Utilities Committee.....20-1
Utilities, Director of.....Ch. 2, Art. IV, Div. 10
Water main, connection to required.....20-3
Water utility regulations ..... Ch. 20, Art. II


## V


**VACATIONS**
Buildings, fire regulations..... 6-7
Fire regulations re: vacation of buildings..... 6-7
Streets, vacation of.....23-62(b)(2)
Unsafe building vacation ..... 4-186

**VACCINATIONS**
Dogs, cats and ferrets rabies vaccinations..... 3-18

**VARIANCES**
Board of Appeals ..... 23-293
Driveway ordinance (appeals of) ..... 19-91
Noise variances ..... 12-83
Sign Code variance ..... 23-542
Swimming pools ..... 4-547
Zoning Code variances..... 23-67

**VEGETATION**
Dutch Elm Disease.....Ch. 21, Art. III
Public nuisances affecting health .....12-28(6)
Public trees and shrubs.....Ch. 21, Art. II
Trees and shrubbery ..... Ch. 21, Art. I
View at intersection, obstruction by vegetation . 19-10
Weeds and wild growth.....Ch. 12, Art. III

**VEHICLES FOR HIRE**
Bicycles..... 19-199
Taxicabs and similar services..Ch. 9, Art. XIII, Div. 2
Wrecker services.....Ch. 9, Art. XIII, Div. 3

**VOTES AND VOTERS**
Destruction of voter record cards..... 2-1(c)(10)
Districts, wards, polling places ..... Charter: 2-3

## W


**WAGE RATES**
Employees of Public Works contractors (prevailing wage rate ordinance) ..... Ch. 2, Art. VII

**WALKS**
SEE: STREETS, SIDEWALKS AND OTHER PUBLIC WAYS
License (for work on sidewalks).....9-33

**WALL SIGNS**
See: SIGNS
Generally .....Ch. 23, Art. XIV
Area calculation .....23-523(c)

**WARDS**
Certain ordinances not affected by Code ..... 1-10(22)
Designation .....Charter: 2-3

**WARRANTS**
See: WRITS, WARRANTS & OTHER PROCESSES

**WASTEWATER**
Discharge permit.....Ch. 20, Art. III, Div. 3
Pretreatment.....Ch. 20, Art. III, Div. 2
Sewers and wastewater disposal .....Ch. 20, Art. III

**WATER HEATERS**
Electrical systems .....Ch. 4, Art. VI
Gas-fired water heaters .....4-524(h)
Permits ..... Ch. 4

**WATER AND WATER SUPPLY**
Authority to discontinue service .....20-34
Automatic sprinkler systems.....6-57
Connection fee .....20-1
Connection to water main required.....4-270
Cross connections .....20-41
Fire equipment .....6-2
Fire regulations, generally ..... Ch. 6
Fluoridation of water .....20-36
Generally .....Ch. 20, Art. I
Meters and access to premises .....20-33
Manufactured/mobile homes and manufactured/ mobile home communities
Fire hydrants .....11-76
Specifications for water utilities.....11-75
Use of City water required .....11-74
Plumbing regulations ..... Ch. 4, Art. V
Private water wells.....20-42
Rates and charges .....Ch. 20, Art. IV
Sewers and wastewater disposal .....Ch. 20, Art. III
Sprinklers, use of [lawn/garden] .....20-40
Subdivision regulations..... Ch. 17
Tampering with equipment .....20-37
Unauthorized connection .....20-38
Utilities Committee ..... 20-1
Water main, required connection to ..... 20-2
Water Utility .....Ch. 20, Art. II

**WEAPONS**
See: FIREARMS

**WEEDS AND WILD GROWTH**
Generally.....Ch. 12, Art. III
Landscaping and screening .....Ch. 23, Art. XVI
Manufactured/mobile homes and manufactured/ mobile home communities
Responsibilities of management..... 11-27(b)(7)
Nuisances affecting health .....12-28(6)
Yard waste
Collection .....15-33(d)
Public streets..... 16-18
Vision obstructions by vegetation, etc. ..... 19-10
Zoning regulations, vision obstructions .....23-50(g)
Zoning regulations, vision obstruct... 23-601(f)(2), (3)

**WEIGHT LIMITS**
Authority to impose [vehicle] weight limits ..... 16-39

**WEIGHTS AND MEASURES**
Generally..... Ch. 22, Art. I
Licenses .....Ch. 22, Art. II

**WELDING**
General requirements ..... 6-59

**WELLS**
Dangerous excavations, cisterns, basements, etc.12-34
Development standards in floodfringe areas .... 23-253
Floodway district prohibited uses ..... 23-238
Nuisances
Open and unguarded wells .....12-30(12)
Pollution .....12-28(8)
Private water wells ..... 20-42
Sealing of unused sewer and water services ..... 4-272

**WHISTLES**
Noise, prohibited acts.....12-81(e)
Sounding locomotive whistles ..... 12-84

**WILD ANIMALS**
Animals, in general .....Ch. 3
Wild or dangerous animals..... Ch. 3, Art. IV

**WOOD**
Fireplace wood and stove wood..... 22-15
Nuisances affecting peace and safety.....12-30(17)
Outside storage of fire wood ..... 12-36
Solid waste collection regulations.....Ch. 15, Art. II
Wood-fired furnaces, etc..... 6-13

**WRECKER SERVICES**
Generally.....Ch. 9, Art. XIII, Div. 3

**WRITS, WARRANTS & OTHER PROCESSES**
Citations for violations of ordinances .....1-17
Cross connections, right of entry .....20-41(d)
Fire Department, right of entry .....6-5(d)
Sewers and wastewater disposal
Compliance monitoring; search warrants.....20-162

## Y

**YARDS**
Animals
Harboring dangerous animals.....3-132
Maintenance of pens and enclosures .....3-13
Front yard parking .....19-91
Landscaping and screening.....Ch. 23, Art. XVI
Outside storage of firewood.....12-36
Subdivision regulations..... Ch. 17
Solid waste collection regulations ..... Ch. 15, Art. II
Weed ordinance .....Ch. 12, Art. III
Yard maintenance .....12-59
Yard waste in public streets .....16-18
Zoning, *see individual zoning districts* ..... Ch. 23

## Z

**ZONING**
*See also Table of Contents for Chapter 23*
Accessory uses and structures ..... 23-43
Administration (of Zoning Code)..... Ch. 23, Art. IV
Adult-oriented establishments..... Ch. 23, Art. XII
AG Agricultural district ..... 23-91
Board of Appeals ..... 23-63
Board of Zoning Appeals.....Ch. 2, Art. III, Div. 4
Certificate of occupancy ..... 23-69
City Plan Commission ..... 23-62
Commercial districts ..... Ch. 23, Art. VI
C-1 Neighborhood Commercial District ..... 23-112
C-2 General Commercial District..... 23-113
CBD Central Business District..... 23-114
C-O Commercial Office District ..... 23-111
P Parking District ..... 23-115
Community living arrangements and other living arrangements ..... 23-52
Definitions.....Ch. 23, Art. II
Dimensional exceptions and modifications..... 23-50
Fences and walls ..... 23-44
Floodplain zoning .....Ch. 23, Art. X
Historic preservation ..... Ch. 23, Art. XVII
Home occupations..... 23-45
Industrial districts..... Ch. 23, Art VII
M-1 Industrial Park District..... 23-131
M-2 General Industrial District ..... 23-132
Landscaping and screening .....Ch. 23, Art. XVI
NC Nature Conservancy District ..... 23-101
Nonconforming structures, uses, characteristics 23-42
Off-street parking and loading ..... Ch. 23, Art. IX
Official Zoning Map ..... 23-38
Outdoor lighting..... 23-53
Overlay districts .....Ch. 23, Art. VIII
PD Planned Development Overlay District.. 23-151
TND Traditional Neighborhood Development Overlay District..... 23-152
P-I Public Institutional District ..... 23-100
Parking, loading standards ..... Ch. 23, Art. IX
Private agreements ..... 23-33
Residential districts .....Ch. 23, Art. V
R-1A Single-Family District ..... 23-92
R-1B Single-Family District..... 23-93
R-1C Central City Residential District ..... 23-94
R-2 Two-family District ..... 23-95
R-3 Multifamily District..... 23-96
Remonstrances related to zoning changes..... 1-19
Rezoning ..... 23-65
Signs.....Ch. 23, Art. XIV

Site plan review and approval ..... Ch 23, Art. XV
Special use permits .....23-66
Temporary uses and structures .....23-54
Variances .....23-67
Wireless telecommunications facilities.....
..... Ch. 23, Art. XIII
Zoning Map .....23-38