

ADMINISTRATION

Chapter 2

Administration

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Editor’s Note: Chapter 2 – Administration was repealed and recreated by Ordinance No. 44-12, adopted by the Appleton Common Council on June 6, 2012, published on June 11, 2012 and becoming effective on June 12,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

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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).

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destruction of public records. W.S.A. 19-21(4).

Secs. 2-2 – 2-25. Reserved.

(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;

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ARTICLE II. COMMON COUNCIL*

Sec. 2-26. Form of government.

The City operates under the Mayor-Aldersperson 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)

Sec. 2-29. Aldersperson absence; participation electronically.

(a) An aldersperson, who is a qualified individual with a disability as defined in s. 35.104, Code of Federal Regulations, Title 28, Chapter 1, Section 3, unable to appear in person at a meeting of the Common Council may request in writing or by email at least twenty-four (24) hours in advance of the meeting the written or emailed permission from the President of the Common Council to participate in the meeting electronically. The participation

by an aldersperson electronically shall be permitted in cases where extreme temperatures would negatively impact adaptive equipment used by the person either on their person or as a mode of transportation. An aldersperson's appearance electronically must be noted in the meeting minutes. Electronic participation must occur in the meeting room so that the physically absent member can hear and can be heard by all those who are present. An aldersperson appearing electronically shall be entitled to participate and vote to the fullest extent possible.

(b) Notwithstanding paragraph (a) above, an aldersperson participating electronically in a fact finding hearing shall not vote on any matter that may require observation of any part of the proceeding, including the demeanor of a witness or viewing exhibits not previously provided.

(c) An aldersperson participating electronically shall not count towards a quorum.

(Ord 22-17, §1, 2-21-17)

Secs. 2-30 – 2-50. Reserved.

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

DIVISION 1. GENERALLY

Secs. 2-51 – 2-75. Reserved.

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

(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.

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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 than 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.

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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 thirteen (13) members as follows:

- (1) Four (4) members from the City of Appleton consisting of two (2) 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 nine (9) 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. Village of Fox Crossing – one (1);
 - e. City of Kaukauna – one (1);
 - f. Village of Kimberly – one (1);
 - g. Town of Buchanan – one (1); and
- (3) The members listed in (2) shall serve three (3) year terms which shall expire 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; Ord 52-17, §1, 8-8-17)

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,

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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)

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.

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

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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.

APPLETON CODE

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.

ADMINISTRATION

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.

APPLETON CODE

**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.

ADMINISTRATION

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)

APPLETON CODE

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.

ADMINISTRATION

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.

APPLETON CODE

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.

ADMINISTRATION

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.

APPLETON CODE

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 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 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.

ADMINISTRATION

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.

APPLETON CODE

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 statute 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.

ADMINISTRATION

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.

APPLETON CODE

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.

ADMINISTRATION

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.)

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)

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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; and on building rooftops within the Central Business District (CBD) 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.

(e) Upon obtaining a permit issued by the Health Department, and subject to the Rules and Regulations for hen keeping, up to four (4) chicken hens may be maintained by the permit holder. The Rules and Regulations for chicken hen keeping shall be on file in the Health

Department. The permit will allow up to four (4) chicken hens at all one- (1-) and two (2-) family dwellings. (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, Ord 30-17, §1, 4-11-17; Ord 39-17, §1, 6-13-17)

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.

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(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.

BUILDINGS AND BUILDING REGULATIONS

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 Director of Public Works, it will not unreasonably 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; Ord 79-17, §1, 11-7-17)

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 and all property owners within 100 feet of the proposed relocation of the date and time of the Municipal Services meeting where the proposed relocation will be heard.

(d) No existing 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).

(e) No existing 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; Ord 80-17, §1, 11-7-17)

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, until the moving is completed, to cause the least possible obstruction to streets unless otherwise ordered by the Director of Public Works.

(c) Red warning lights shall be placed conspicuously at both ends of the building during the night.

(d) The mover of the building shall report daily to the Police and Fire Departments the location of the building on the street.

(Code 1965, §15.08(3), Ord 81-17, §1, 11-7-17)

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 instruct the Forestry Division to trim the necessary trees along the route. The costs of the inspector and tree trimmers may be billed at actual cost to the mover.

(Code 1965, §15.08(5), Ord 40-12, §1, 5-16-12; Ord 82-17, §1, 11-7-17)

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 may be required. A fee of twenty dollars (\$20.00) per hour per man assigned to the escort may be charged.

(Code 1965, §15.08(8); Ord 83-17, §1, 11-7-17)

Secs. 4-213 – 4-230. 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 from a contiguous street, plaza, sidewalk or parking lot.

Health care facility has the meaning set forth in Sec. 155.01(6), Wis. Stats.

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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

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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) Theaters, 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. In the Blue Ramp, smoking or tobacco product use is strictly prohibited except in specifically designated areas. Within the Red, Green, and Yellow Ramps, smoking or tobacco product use is strictly prohibited unless on the top floor of the ramp and at least twenty (20) feet from the entry way.

(Ord 59-17, §1, 9-12-17)

(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

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Parks, Recreation and Facilities Management 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 theater 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

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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.)

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State law reference(s)--Municipal administrative procedure, W.S.A. §68.001 et seq.

DIVISION 4. SIDEWALK CAFES

Secs. 9-240—9-255. Reserved.

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

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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, Oktoberfest, 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 neither obstruct the defined pedestrian right-of-way adjacent to the amenity strip, nor have any items in excess of five (5) feet in height, with the exception of table umbrellas.

(Ord 54-17, §1, 8-8-17)

(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, its 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 of 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

DIVISION 3. HOTELS, MOTELS AND TOURIST ROOMING HOUSES*

ARTICLE VIII. JUNKYARDS AND SECONDHAND GOODS DEALERS*

Sec. 9-341. Definition.

For purposes of this division, hotel, motel and tourist rooming house shall mean any premises defined by Wisconsin Administrative Code, ATCP 72.03. (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.

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))

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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

(\$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

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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. Finding and purpose.

It is the finding of the Common Council that the existence of a rotating call list comprised of eligible towing companies is essential to public convenience and safety and for the efficiency of the police department. The purpose of a rotating call list is to provide the police department with a list of approved and eligible towing companies capable of towing a citizen’s vehicle in times of need. Such times include, but are not limited to:

(a) Traffic accidents where the vehicle’s owner/operator does not express a preference for a towing service or the towing service of their choice is not available;

(b) Disabled vehicles and vehicles posing a hazard, in the discretion of the police department, where the vehicle’s owner/operator does not express a preference for a towing service or the towing service is not available;

(c) Illegally parked vehicles, including vehicles parked in violation of temporary parking restrictions due to a special event; and

(d) Vehicles towed subsequent to an arrest. (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; Ord 17-17, §1, 1-10-17)

Sec. 9-747. Definitions.

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

Assignment means a call from the Outagamie County Public Safety Communications Center to a towing company on the rotating call list requesting towing services resulting in the towing company going to tow a vehicle.

Class “A” wrecker or wrecker means a wrecker unit with an accepted commercially manufactured wrecker apparatus, single- or twin-boom, equipped with a mechanical or hydraulic power supply and dual rear wheel units with a minimum gross vehicle weight (GVW) of 10,000 pounds and having a minimum unit rating of four-ton capacity as rated by the manufacturer. The wrecker apparatus shall be attached to a motor vehicle truck chassis in conformance with wrecker apparatus recommendations for truck chassis gross vehicle weight not less than 10,000 pounds GVW. The wrecker unit shall be considered as a whole for compliance with this definition and no exception shall be allowed.

Fee schedule is the schedule approved by the Common Council and on file with the City Clerk that lists the maximum fees a towing company may charge a customer for providing services related to this Article.

Flatbed tow truck means a hydraulic fill rollback bed truck, commercially manufactured and rated by the manufacturer to have a minimum winch capacity of not less than four tons by direct pull with accepted manufacturer rating. The rollback flatbed shall be attached to a truck chassis in conformance with the manufacturer's recommendations with a chassis manufacturer rating of not less than 10,000 pounds GVW and a minimum bed length of 19 feet. The unit shall be capable of and rated for a bed payload minimum of 7,000 pounds as commercially manufactured and rated. The flatbed unit shall be considered as a whole for compliance with this definition and no exception shall be allowed except as otherwise provided herein.

Notice, from the police department to a towing company, shall be deemed delivered to the company upon the notice being hand delivered to the owner or registered agent of the company or, if mailed, within three (3) business days after the date the notice was mailed.

No tow means the vehicle's owner/operator moved the vehicle prior to the towing company partially towing or removing the vehicle.

Partial tow means a towing company placed a vehicle to be towed onto their flatbed tow truck or wrecker but the vehicle's owner/operator took possession of the vehicle prior to the vehicle being removed.

Place of business means a location in the corporate city limits of the city of Appleton that (1) the towing company has use of, by ownership or written lease, (2) has a storage facility, the company's primary telephone and telephone number, cellphones and/or two-way radios, a point of sale system, and all other equipment and personnel reasonably necessary for the company to perform its obligations under this Article, (3) is open, accessible and staffed as required in this Article, (4) has a single dedicated phone number available to the Appleton Police Department, and (5) has a sufficient number of employees to operate all of the necessary equipment pursuant to this Article at any time.

Regular business hours are the minimum hours a place of business must be open to the public for the retrieval of their vehicle or personal belongings, being Monday through Friday, from 8:00 a.m. until 5:00 p.m., and available to open on Saturdays from 8:00 a.m. until 12:00 noon upon the request of an owner of a towed vehicle. Regular business hours do not include legal holidays.

Rotating call list or list means the list of approved towing companies that take turns responding to an assignment.

Storage facility means a fenced-in, lighted, locked yard or secure indoor storage area in the corporate city limits of the city of Appleton with at minimum one (1) working bay and a minimum storage capacity of fifteen (15) vehicles. The storage facility must conform to all building and zoning requirements and must be owned or leased by the towing company for such purposes.

Towing company or company means any company, firm, partnership, corporation, association or entity engaged in the business of the recovery and towing of motor vehicles on a full-time basis.

Wheel lift means an accepted commercially manufactured apparatus designed for the towing and recovery of motor vehicles by the towed unit's wheels/suspension. The wheel lift apparatus shall have a minimum manufacturer lift rating of 3,000 pounds while fully extended. The wheel lift apparatus shall be attached in conformance with manufacturer's recommendations for chassis mounting on a truck chassis having a manufacturer's rating of at least 10,000 pounds GVW. The wheel lift shall be considered an integral part of the wrecker apparatus considered as a whole for compliance with this definition and no exception shall be allowed. (Code 1965, §22.04(11); Ord 31-91, §1(11), 3-20-91; Ord 17-17, §1, 1-10-17)

Sec. 9-748. Eligibility.

To be eligible for placement on the rotating call list, a towing company must meet the following requirements:

- (a) A State of Wisconsin Licensed Carrier Permit and any other licenses required by the State.
- (b) Ownership or the exclusive lease of, at minimum, one (1) flatbed tow truck and one (1) class "A" wrecker equipped with a wheel lift.
 - (1) Each vehicle must be registered, licensed and maintained in a safe and serviceable condition at all times, with proof available upon request.
 - (2) Each vehicle must be insured at rates determined by the City of Appleton's Risk Manager, with proof on file with the City of Appleton.
 - (3) Each vehicle must be inspected annually by a qualified technician, with proof available upon request.

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- (4) Each vehicle must contain, at minimum, a two-way radio communication device and/or cell phone, a tow dolly (except for flatbed tow truck), a broom, a shovel, a motorcycle belt, a snatch block and a steering wheel holder.

(c) A place of business in the corporate city limits of Appleton.

(d) Provide proof upon request that the company conducted a background check of their employees providing a service under in this Article, including responding to an assignment or providing the owner of a towed vehicle access to his/her vehicle.

(e) Provide upon request a true copy of the driver's license for each employee who operates a vehicle for the towing company.

(f) Towing companies on the rotating call list must agree to the following:

- (1) Grant the Appleton Police Department the right to inspect the place of business, equipment and vehicles without notice during regular business hours and with reasonable notice during non-business hours, and
- (2) Indemnify, defend and hold harmless the City of Appleton and its employees, elected and appointed officials, agents and volunteers from and against all claims, suits, damages, costs, losses and expenses (including attorney's fees) in any manner resulting from, arising out of, or connected to being on the rotating call list.
- (3) Attend an annual meeting held by the Appleton Police Department.
- (4) Ensure that employees with convictions substantially related to their ability to provide safe, reliable and trustworthy service pursuant to this Article are prohibited from providing a service pursuant to this Article.

(Code 1965, §22.04(12); Ord 31-91, §1(12), 3-20-91; Ord 17-17, §1, 1-10-17)

Sec. 9-749, Application, investigation, term.

(a) A towing company must apply to be on the rotating call list by completing a rotating call list application. Applications are available at the Appleton Police Department and are accepted year round.

(b) The Chief of Police or designee shall, within thirty (30) business days receipt of an application, conduct an

investigation to determine whether the company meets all of the requirements of this Article. If the towing company does not meet all of the requirements or if the company has been previously removed from the list pursuant to Sec. 9-752, the Chief of Police or designee may deny the application.

(1) If the application is approved, the towing company will be placed onto the rotating call list within seven (7) business days.

(2) If the application is denied, the company will be informed by the Chief of Police or designee in writing within seven (7) business days after the conclusion of the investigation.

a. A towing company may reapply one (1) additional time in a calendar year.

b. A denial shall not prevent the towing company from re-applying in subsequent years.

(c) All approved applications expire on December 1 of each year. Towing companies must reapply annually. (Code 1965, §22.04(13); Ord 31-91, §1(13), 3-20-91, Ord 40-02, §1, 3-25-02; Ord 17-17, §1, 1-10-17)

Sec. 9-750. Responsibilities.

(a) A towing company's place of business must be open to the public during regular business hours.

(b) A towing company must provide rotating call list services 24 hours a day, seven (7) days a week, including on legal holidays.

(c) Assignments shall be given to towing companies on a rotating basis.

(1) Upon receiving an assignment, the towing company must provide prompt and efficient service. Unless emergency conditions dictate otherwise, as determined solely by the Chief of Police or designee, "prompt service" means the arrival of a wrecker within 20 minutes and/or the arrival of a flatbed tow truck within 25 minutes after receiving the assignment. In the event the towing company informs the Outagamie County Public Safety Communications Center the company will be unable to provide prompt service, the Communications Center may choose a different towing company from the list and the originally assigned company will be placed at the end of the list.

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- (2) Assignments shall be deemed waived by the non-response or non-acceptance of an assignment by a towing company and that company will be placed at the end of the list.
- (3) If an assignment results in a no tow, the towing company shall not charge for the no tow and the company will be placed at the top of the list.
- (4) If an assignment results in a partial tow, the towing company may, in the company's discretion, charge for the partial tow at the rate provided for in Sec. 9-751(a). If the company does not charge, the company will be placed at the top of the list. If the company does charge, the company will be placed at the bottom of the list.

(d) In the event a towing company on an assignment needs assistance from another towing company, the request for assistance shall be made only after consulting with the police officer on the scene and a request for assistance must be made by the police officer.

(e) During regular business hours, a towing company must immediately provide the vehicle's owner or designee access to any personal property contained in the towed vehicle, with the exception of components of the vehicle itself, such as license plates, tires, wheels, batteries, and radios, even if payment has not been made. During non-regular business hours the release of personal property to the owner or designee is at the discretion of the towing company with the exception of the following items, which must be released to the owner or designee within a reasonable amount of time: luggage (upon verification that the owner/operator is from out-of-town), medical devices, prescription glasses, prescription medication, perishable items and unfilled medication prescriptions.

(f) Towing company employees who are engaged in any activity described in this Article must:

- (1) Have a valid driver's license, if their position involves vehicle operation,
- (2) Be attired in a reflective safety vest when involved in a tow operation,
- (3) Conduct themselves in a professional manner,
- (4) Be properly trained, and
- (5) Work in the most efficient manner possible.

(g) Towing companies on the rotating call list must, within seven (7) business days, provide the Chief of Police or designee with information about:

- (1) New employees, if the employee will be involved in any activity described herein, and
- (2) A replacement to or addition of a wrecker and/or flatbed tow truck. New and replacement wreckers and/or flatbed tow trucks must not be used for towing vehicles on the rotating call list until approval for use has been provided by the Chief of Police or designee.

(Code 1965, §22.04(14)-(16); Ord 31-91, §1(14)-(16), 3-20-91; Ord 97-97, §1, 12-5-97; Ord 17-17, §1, 1-10-17)

Sec. 9-751. Fees, payment.

(a) Towing companies must provide their services under this Article at rates not exceeding those on the fee schedule.

(b) On an annual basis, the Chief of Police or designee may recommend amendments to the fee schedule to the Common Council by way of the Safety and Licensing Committee.

(c) Towing companies shall charge only for equipment and time reasonably necessary for the service provided. There shall be no extra charge if a towing company responds to an assignment with the incorrect equipment.

(d) Towing companies shall charge the owner or operator of a vehicle, not the City of Appleton, for the services provided under this Article. A bill for service must include an itemized accounting of the services performed by the towing company. A copy of the bill for service must be retained by the towing company for the calendar year of issuance plus the next calendar year. Towing companies must provide the copy to the Chief of Police or designee immediately upon request. (Ord 102-00, §1, 11-18-00; Ord 17-17, §1, 1-10-17)

Sec. 9-752. Suspension and revocation.

(a) In the event a towing company is no longer in compliance with any portion of this Article, the towing company must immediately notify the Chief of Police or designee who shall immediately remove the company from the list. Once the towing company returns to full compliance with this Article, the towing company may inform the Chief of Police or designee, at which time the towing company will be reinstated to the list upon verification by the Chief of Police or designee that the towing company is in full compliance.

(b) The Chief of Police or designee shall promptly investigate a report of a towing company violating any provision of this Article or any other rule, regulation,

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ordinance, statute or code. At the conclusion of the investigation, the Chief of Police or designee shall use his/her discretion to take any of the following actions:

- (1) Remove the towing company from the list,
- (2) Require corrective action within a certain timeframe and, if not corrected in that timeframe, remove the towing company from the list,
- (3) Issue a written or verbal warning, or
- (4) Take no action.

(c) A towing company receiving two (2) written warnings in a calendar year shall be immediately removed from the rotating call list, with the suspension beginning on the date the towing company receives notice of the removal.

(d) A towing company may request a reconsideration of a decision made pursuant to this Article by putting the reason for the request in writing and submitting it to the Chief of Police. The Chief of Police or designee shall review the request and issue a written decision on the request within seven (7) business days. A towing company may appeal the decision of the Chief of Police or designee within ten (10) business days by placing the reason for the appeal in writing and delivering the appeal to the City Clerk. The appeal will be heard and decided by the Common Council by way of the Safety and Licensing Committee.

Editor's Note: This Article was repealed and recreated in January 2017, and included the renumbering of some sections.

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.

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**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

Secs. 9-821 – 9-829. Reserved.

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)

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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;

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- (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;

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- 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.

Secs. 9-842 – 9-849. Reserved.

(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.

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.

requirements as set forth in this article are met by the applicant.
(Ord 92-16, §1, 11-8-16)

(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. 9-863. 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

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.

Secs. 9-866 – 9-869. Reserved.

(b) Reciprocity within the State of Wisconsin will be recognized upon receipt of proof that the local

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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
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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).

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(Ord 94-16, §1, 11-8-16)

DIVISION 5. PHYSICAL FACILITIES AND ENVIRONMENT

Secs. 9-886 – 9-889. Reserved.

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

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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)

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(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 sidewalk, trail or road and is 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. The dog shall display tags verifying it is currently licensed and vaccinated against rabies. Any waste left by the dog shall be immediately removed for sanitary disposal by the individual in control of the animal.

(1) A violation of this subsection or violation of any other provision of this Code regarding the keeping, maintaining, controlling and the like of an animal occurring within a city park may be subject to a forfeiture that is twice the otherwise scheduled amount.

(2) Dogs at Special Events. Dogs shall be prohibited during special events in parks, including sidewalks, trails and roads, unless preapproved by the event organizer and the City.

(Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-25-16; Ord 40-17, §1, 6-13-17)

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.

APPLETON CODE

- (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.

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(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.)

SOLID WASTE AND RECYCLING

(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. Solid waste set out for collection must originate at the residence being serviced; waste set out for collection that originated at a different property will not be collected.

(Ord 24-17, §1, 3-21-17)

(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.

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- (3) Each battery improperly disposed under subsection (1) or (2) above shall constitute a separate violation. more than five hundred dollars (\$500.00)
(Ord 54-94, §1, 4-20-94)
- (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

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 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.

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)

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Chapter 16

Streets, Sidewalks and Other Public Places

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***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 and handicap ramps 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.

(Ord 25-17, §1, 3-21-17)

(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

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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)

Sec. 16-19 – Sec. 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

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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)

Sec. 16-41 – Sec. 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.

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(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))

Sec. 16-62 – Sec. 16-99. Reserved.

ARTICLE IV. RIGHT-OF-WAY MANAGEMENT

Sec. 16-100. Findings and purpose.

(a) In the exercise of its police powers, the City has priority over all other uses of the public rights-of-way. The City desires to anticipate and minimize the number of obstructions and excavations taking place in the public rights-of-way to ensure that the rights-of-way remain available for public services and safe for public use. The taxpayers of the City bear the financial burden for the upkeep of the rights-of-way and a primary cause for the early and excess deterioration of the public rights-of-way is the frequent excavation by Person who place facilities therein.

The City finds that there has been an increase in the use of the public rights-of-way and, as a result, increased costs to the taxpayers of the City and that these costs are likely to continue into the foreseeable future.

The City finds that excavation and occupancy of the public rights-of-way causes direct and indirect costs to be borne by the City and its taxpayers, including but not limited to:

- (1) Administrative costs associated with public rights-of-way projects, such as registration, permitting, inspection and supervision, supplies and materials.
- (2) Management costs associated with ongoing management activities necessitated by public right-of-way users.
- (3) Repair costs to the roadway associated with the actual excavation into the public right-of-way.

In response to the foregoing facts, the City hereby enacts this ordinance relating to the administration and permitting of excavation, obstruction and/or occupancy of the public rights-of-way, together with an ordinance making necessary revisions to other Code provisions. This ordinance imposes reasonable regulations on the placement and maintenance of facilities currently within in rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies and not conflict with regulations of those agencies.

The purpose of this ordinance is to provide the City a legal framework within which to regulate and manage the public rights-of-way, and to provide for recovery of costs. This ordinance provides for the health, safety and welfare of the residents of the City as they use the rights-of-way of the City, as well as to ensure the structural integrity of the

public rights-of-way.

Under this chapter, all Persons who excavate, obstruct and/or occupy the public rights-of-way will reimburse the City’s administrative costs. Right-of-way users will bear a fair share of the financial responsibility for the integrity of the public rights-of-way.

Sec. 16-101. Definitions.

The following definitions apply in this ordinance. References hereafter to “sections” are, unless otherwise specified, references to sections in this ordinance. Defined terms remain defined terms whether or not capitalized.

Applicant means any person requesting permission to excavate, obstruct and/or occupy a right-of-way.

City means the City of Appleton.

Department means the City’s Director of Public Works.

Department inspector means any person authorized by the Department to carry out inspections relating to the provisions of this chapter.

Emergency means a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property or (2) requires immediate repair or replacement in order to restore service to a customer.

Excavate means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

Facilities means all equipment owned, operated, leased or subleased in connection with the operation of a service or utility service, and shall include but is not limited to poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, fiber optic cables, lines and other structures and appurtenances.

In, when used in conjunction with “right-of-way”, means over, above, in, within, on or under a right-of-way.

Local representative means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

Obstruct means to place any object in a right-of-way as to hinder free and open passage over/under on or in that or any part of the right-of-way.

Occupy means to dwell or reside above, on, in, or below the boundaries of the public rights-of-way.

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Permittee means any person to whom a permit to excavate or occupy a right-of-way has been granted by the City under this chapter.

Person means, municipality, corporation, company, including a “Company” defined as Wis. Stat. § 182.017(1g)(b), association, firm, partnership, limited liability company, limited liability partnership and individuals and their lessors, transferees and receivers.

PSCW means the Public Service Commission of Wisconsin.

Public Utility has the meaning provided in Wis. Stat. § 196.01(5).

Registrant means any person who has registered with the City (1) to have its facilities located in any right-of-way or (2) to use or seek to occupy or use the right-of-way or any facilities in the right-of-way.

Repair means to perform construction work necessary to make the right-of-way useable for travel, according to department specifications, or to return facilities to an operable condition that is in as good or a better condition as the facilities were before the work commenced.

Repair Bond means a license or permit bond, a letter of credit, or cash deposit posted to ensure the ability of sufficient funds to assure that right-of-way excavation repair work is completed in both a timely and quality manner, per Department specifications.

Right-of-way means the surface and space above and below a public roadway, highway, street, bicycle lane, landscape terrace, shoulders, side slopes, and public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes.

Rights-of-way User means a person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the public right-of-way.

Service or utility service includes services such as municipal sewer and water services and services provided by a Public Utility or a Company subject to Wis. Stat. § 182.017 and other similar services.

Supplementary application means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that has already been issued.

Unusable facilities means facilities in the right-of-way which have remained unused for one year and for which the registrant is unable to provide proof that it has either a plan

to begin using them within the next twenty-four (24) months or a potential purchaser or user of the facilities.

Sec. 16-102. Administration.

The Department is responsible for the administration of the rights-of-way, and the permits and ordinances related thereto.

Sec. 16-103. Registration for right-of-way occupancy.

(a) **Registration.** Each service, utility service or right-of-way user who occupies, uses, or seeks to occupy or use, the right-of-way or any facilities in the right-of-way, including by lease, sublease or assignment, or who has, or seeks to have, facilities located in any right-of-way shall register with the Department and pay the fee on file with the Department. Registration will consist of providing application information and paying a registration fee. This section shall not apply to those persons exclusively utilizing facilities provided by another right-of-way user.

(b) **Registration prior to work.** No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof in any right-of-way without first being registered with the Department.

(c) **Exceptions.** Nothing herein shall be construed to repeal or amend the provisions of a City ordinance requiring persons to plant or maintain the tree lawn in the area of the right-of-way between their property and the street curb, construct sidewalks, install street signs or perform other similar activities. Persons performing such activities shall not be required to obtain any permits under this chapter.

Sec. 16-104. Registration information.

(a) **Information required.** The information provided to the Department at the time of registration shall include, but not be limited to:

- (1) Each registrant’s name, Diggers Hotline registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.
- (2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

- (3) All right-of-way users shall demonstrate to the satisfaction of the City the financial capability to cover any liability that might arise out of their presence in the right-of-way. If the person is a corporation, a LLC or LLP, a copy of any certificate required to be filed under Wisconsin Statutes as recorded and certified to the Secretary of State and shall be included with the registration.
- (4) A copy of the person’s certificate of authority from PSCW or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.
- (5) Execution of an indemnification agreement in a form prescribed by the Department, which is consistent with, and shall not exceed the obligations provided in, Sec. 16-126 herein.

(b) **Notice of changes.** The registrant shall keep all of the information listed above current at all times by providing to the Department information as to changes within fifteen (15) working days following the date on which the registrant has knowledge of any change.

Sec. 16-105. Registration fee.

(a) **Annual registration fee.** Each registrant shall annually renew its registration or discontinue and properly abandon its facilities. The Department shall establish the registration fee in an amount sufficient to recover the costs incurred by the City for processing registrants. This fee shall be computed as the average of labor costs, indirect costs, and other costs associated with registration.

(b) **Fee computation.** The Department may recalculate and establish a new registration fee each year and said fee shall be on file with the Department.

Sec. 16-106 – Sec. 16-109. Reserved.

Sec. 16-110. Excavation permit requirement.

(a) **Excavation permit required.** Except as otherwise provide in this chapter or other chapters of the Municipal Code, no person shall excavate any right-of-way or place facilities in a right-of-way without first having obtained an excavation permit from the department.

No person shall excavate right-of-way or maintain an excavation in the right-of-way beyond the date or are specified in the permit unless such person makes a supplementary application for another excavation permit before the expiration of the initial permit, pursuant to Sec. 16-118, and a new permit or permit extension is granted.

(b) **Permit display.** A copy of any permit issued under this chapter shall be made available at all times by the Permittee at the indicated work site and shall be available for inspection by the department upon request.

Sec. 16-111. Excavation permit application.

(a) Application for a permit shall be made to the Department. Permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

- (1) Registration with the Department as required by this Chapter;
- (2) Submission of a completed permit application form, including the following:
 - a. If the proposed project involves the installation of a pole or tower in the right-of-way, the applicant must submit scaled drawings of the proposed pole or tower and all proposed attachments.
 - b. the applicant shall identify in detail the location of the proposed project and any affected right-of-way, public utility easements, and the location of all existing and proposed facilities within the project area in addition to installation details, traffic control plans and other details requested by the Department;
 - c. If the proposed project involves the installation of a pole or tower in the right-of-way, the applicant may be required to submit evidence sufficient to demonstrate that the applicant is prohibited from using an existing pole or tower (either owned by the applicant or a third party) because such use is technically infeasible, economically

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prohibitive, or prohibited by law.

d. If the proposed project involves the installation of a pole or tower in the right-of-way that is greater than 10 feet taller than existing poles or towers in nearby right-of-way, the applicant may be required to submit evidence sufficient to demonstrate that:

- 1. the greater height is required to accomplish the applicant's purposes;
- 2. the applicant is prohibited from using existing poles or towers (either owned by applicant or a third party) to accomplish its purposes because such use is technically infeasible, economically prohibitive, or prohibited by law; and
- 3. the pole or tower, due to its height and size, poses no greater danger to the health, safety, and welfare of the public than existing poles in nearby right-of-way.

- (3) Payment of all money due to the City for:
 - a. applicable permit fees and costs as set forth below;
 - b. unpaid fees or costs due for prior excavations; or
 - c. any loss, damage, or expense suffered by the City because of applicant's prior excavations of the rights-of-way or any emergency actions taken by the City.

(4) A statement on forms provided by the Department that the registrant will comply with all local, state, and federal codes including, but not limited to, safety, building, traffic control codes, and the Manual of Uniform Traffic Control Devices (MUTCD).

(5) Furnish a certificate of liability insurance compliant with standards of the Department.

(6) Post a permit bond unless waived by the Department. When an excavation permit is requested for purposes of installing additional facilities, and the posting of a repair bond for the additional facilities is insufficient, the posting of an additional or larger repair bond

for the additional facilities may be required.

(7) The Department shall not deny a registrant an excavation permit because of a dispute between the City and the registrant, related to Sec. 16-111(a)(3)(b) and/or Sec. 16-111(a)(3)(c) if:

- a. the dispute has been adjudicated in favor of the registrant;
- b. the dispute is the subject of an appeal filed by the registrant and no decision in the matter has as yet been rendered.

Sec. 16-112. Excavation permit fee.

(a) *Fee calculation.* The excavation permit fee shall be established by the Department annually in an amount sufficient to recover the costs incurred by the City. This fee may recover costs incurred by the City for each of the following categories as provided herein:

- (1) Administrative: The general formula for computing the administrative fee shall be the average per-permit costs for labor plus indirect and other costs.
- (2) Repair: No repair fee shall be collected by the City. However, the permittee shall be required to repair the public right-of-way to Department specifications, subject to inspection and acceptance by the Department, as per Sec. 16-113.

(b) *City exemption.* The City shall not pay administrative fees nor shall any person performing work in the right of way pursuant to a contract with the City.

(c) *Payment of permit fees.* No excavation permit shall be issued without payment of applicable fees, unless the applicant shall agree to pay such fees within thirty (30) days of billing therefor.

(d) *Fee computation.* The Department may recalculate and establish a new fee structure each year.

(e) *Non-refundable.* Permit fees paid for a permit that the Department has revoked for a breach as stated in Sec. 16-120 are not refundable.

Sec. 16-113. Right-of-way repair.

(a) The work to be done under the excavation permit, and the repair of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done

because of circumstances beyond the control of the Permittee or when work was prohibited as unseasonable or unreasonable under Sec. 16-120.

(b) A Permittee may request to have the City repair the right-of-way.

(1) City repair. If the Permittee requests to have the City repair the right-of-way, the City may accept or reject the request at its sole option. If the City accepts, the Permittee shall be billed for the City's costs, and shall pay the amount thereof within thirty (30) days of billing.

(2) Permittee repair. If the Permittee repairs the right-of-way, it shall, unless waived by the Department, at the time of application for an excavation permit, post a repair bond in an amount determined by the Department to be sufficient to cover the cost of repairing the right-of-way to Department specifications. If, twenty-four (24) months after completion of the repair of the right-of-way, the Department determines that the right-of-way has been properly repaired, the surety on the repair bond shall be released.

(c) **Standards.** The Permittee shall perform repairs according to the specifications of the Department and/or in accordance with the conditions specified in the permit. The Department shall have the authority to prescribe the manner and extent of the repair and may do so in written procedures of general application or on a case-by-case basis.

(d) **Guarantees.** The Permittee guarantees its work and shall maintain it for twenty-four (24) months following its completion, except for organic material, which shall be maintained for twelve (12) months. During either period, the Permittee shall, upon notification from the Department, correct all repair work to the extent necessary, using the method required by the Department. Said work shall be completed within ten (10) calendar days of the receipt of the notice from the Department, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under Sec. 16-119.

(e) **Failure to repair.** If the Permittee fails to repair the right-of-way in the manner and to the condition required by the Department, or fails to satisfactorily and timely complete all repair required by the Department, the Department at its option may do such work. In that event the Permittee shall pay to the City, within thirty (30) days of billing, the cost of repairing the right-of-way. If the Permittee fails to pay as required, the City may exercise its

rights under the repair bond.

Sec. 16-114. Reserved.

Sec. 16-115. Inspection.

(a) **Notice of completion.** When the work under any permit issued hereunder is completed, the Permittee shall notify the Department.

(b) **Site inspection.** The Permittee shall make the work site available to the Department and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(c) **Authority of department.** At the time of inspection, the City may order the immediate cessation of any work that poses a threat to the life, health, safety, or well-being of the public. The City may issue an order to the registrant for any work that does not conform to the applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the registrant shall present proof to the Department that the violation has been corrected. If such proof has not been presented within the required time, the Department may revoke the permit pursuant to Sec. 16-120.

Sec. 16-116. Fall radius/breakaway requirements.

(a) Poles and other utility structures over 60 feet in height shall be located so that all residential, commercial, retail or other occupied buildings are outside the fall radius of the structure.

(b) Rigid non-breakaway poles shall be located a minimum of 10' from roadway curbs or shoulders and behind existing or future sidewalks.

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Sec. 16-117. Joint applications.

(a) *Joint application.* Registrants may jointly apply for permits to excavate the right-of-way at the same place and time.

(b) *Shared fees.* Registrants who apply for permits for the same excavation, which the Department does not perform, may share in the payment of the excavation permit fee. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

Sec. 16-118. Supplementary applications.

(a) *Limitations on area.* An excavation permit is valid only for the area of the right-of-way specified in the permit. Facilities must be installed within eighteen inches (18") of the area shown on the approved permit. No Permittee may perform any work or excavate outside the area specified in the permit, except as provided herein. Any Permittee which determines that an area greater than that specified in the permit must be excavated shall, before working in that greater area (1) make application for a permit extension and pay any additional fees required thereby and (2) be granted a new permit or permit extension.

(b) *Limitation on dates.* An excavation permit is valid only for the dates specified in the permit. No Permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a Permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs and receive the new permit or an extension of the old permit before working after the end date of the previous permit.

(c) *Fees for supplementary applications.* A Permittee shall pay administration costs for any additional permits.

Sec. 16-119. Other obligations.

(a) *Compliance with other laws.* Obtaining a permit to excavate and/or occupy the right-of-way does not relieve a Permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other City, county, State, or Federal rules, laws or regulations. A Permittee shall comply with all requirements of local, state, and federal laws. A Permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

(b) *Prohibited work.* Except in an emergency, or with

the approval of the Department, no right-of-way excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

Sec. 16-120. Revocations, suspensions, refusals to issue or extend permits.

(a) *Grounds.* The Department may refuse to issue a permit or may revoke, suspend or refuse to extend an existing permit if it finds any of the following grounds:

- (1) The applicant or Permittee is required by Sec. 16-103 to be registered and has not done so or the permit application is otherwise incomplete;
- (2) The applicant or Permittee is seeking to perform work not included in its construction and major maintenance plan; which work was reasonably foreseeable by the applicant or Permittee at the time said plan was filed;
- (3) Issuance of a permit for the requested date would or interfere with an exhibition, celebration, festival, or other event;
- (4) Misrepresentation of any fact by the applicant or Permittee;
- (5) Failure of the applicant or Permittee to maintain required bonds and/or insurance;
- (6) Failure of the applicant or Permittee to complete work in a timely manner;
- (7) The proposed activity is contrary to the public health, safety or welfare;
- (8) The extent to which space is available in the right-of-way for which the permit is sought;
- (9) The availability of other locations in the right-of-way or in other rights-of-way for the facilities of the Permittee or applicant;
- (10) If the Permittee or applicant proposes to install a new pole or tower in the right-of-way, the availability of other existing poles or towers owned by the Permittee or applicant or by a third party;
- (11) The applicability of ordinances or other regulations of the right-of-way that affect location of facilities in the right-of-way;
- (12) The condition and age of the right-of-way or whether and when it is scheduled for total or

partial reconstruction; or

- (13) The applicant or Permittee is otherwise not in full compliance with the requirements of this chapter or state or federal law.

(b) **Discretionary issuance.** Notwithstanding Sub. (a)(2), the Department may issue a permit where issuance is necessary (a) to prevent substantial economic hardship to a customer of the Permittee or applicant, or (b) to allow such customer to materially improve its Public Utility service, or (c) to allow the Permittee or applicant to comply with state or federal law or City ordinance or an order of a court or administrative agency.

(c) **Appeals.** Any person aggrieved by a decision of the Department revoking, suspending, refusing to issue or refusing to extend a permit may, within ten (10) days of the Department's decision being issued, file a written request with the Department seeking a review of the decision by the Municipal Services Committee. Following a hearing the Municipal Services Committee may affirm, reverse or modify the decision of the Department. The decision of the Municipal Services Committee is final.

(d) **Time limit to act and written denial.** 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 Applicant. If the City denies a permit application, the City shall provide Applicant with a written explanation of the reason for the denial at the time the City denies the application. See Wis. Stat. § 182.017(9).

Sec. 16-121. Work done without a permit.

(a) **Emergency situations.** Each registrant shall immediately notify the City, by verbal notice, of any event regarding its facilities that it considers an emergency. The registrant may take whatever actions are necessary to respond to the emergency. Within two business days after the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and otherwise fully comply with the requirements of this Chapter. If the City becomes aware of an emergency regarding a registrant's facilities, the Department may attempt to contact the local representative of each registrant affected. The City may take whatever action it deems necessary to protect the public safety as a result of the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

(b) **Non-emergency situations.** Except in an emergency, any person who, without first having obtained the necessary permit, excavates a right-of-way must

subsequently register and apply for an excavation permit, and shall in addition to any penalties prescribed by ordinance, pay four times the normal fee for said permit, pay double all other fees required by this chapter or other chapters of the City Code, deposit with the Department the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter. If a subsequent permit is denied or is not approved, the registrant shall discontinue and abandon its facilities and the Department may cause any offending conditions to be removed or corrected and the expense thereof charged to the person responsible.

Sec. 16-122. Supplementary notification.

If the excavation of the right-of-way begins later or ends sooner than the date given on the permit, the Permittee shall notify the Department of the accurate information as soon as this information is known.

Sec. 16-123. Location of facilities.

(a) **Corridors.** The Department may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is or, pursuant to current technology, the City expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the City involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue consistent with the Department's assignment.

Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the City shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the City for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

(b) **Limitation of space.** To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the Department may prohibit or limit the placement of new, replacement or additional facilities within the right-of-way if there is insufficient space to accommodate all of the requests of Persons to occupy and use the right-of-way. In making such decisions, the Department/City shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future City plans

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for public improvements and development projects which have been determined to be in the public interest.

Sec. 16-124. Relocation of facilities.

Except as prohibited by State or Federal law, a registrant must promptly and at its own expense, with due regard for seasonal working conditions, permanently relocate its facilities in the right-of-way whenever the Department requests such relocation, and shall restore the right-of-way to the same condition it was in prior to said relocation. The Department may make such request to prevent interference by the Company's facilities with (i) a present or future City use of the right-of-way, (ii) a public improvement undertaken by the City, (iii) when the public health, safety and welfare require it, or (iv) when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way.

Notwithstanding the foregoing, a person shall not be required to relocate its facilities from any right-of-way which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the person therefor.

Sec. 16-125. Interference with other facilities during municipal construction.

When the City performs work in the right-of-way and finds it necessary to maintain, support, shore, or move a registrant's facilities, the City shall notify the local representative. The registrant shall meet with the City's representative within 24-hours and coordinate the protection, maintenance, supporting, and/or shoring of the registrant's facilities. The registrant shall accomplish the needed work within 72 hours, unless the City agrees to a longer period. In the event that the registrant does not proceed to maintain, support, shore, or move its facilities, the City may arrange to do the work and bill the registrant for costs it incurs as well as damages of \$100 per day beyond the registrant's 72 hour deadline to accomplish the needed work, said bill to be paid within thirty (30) days.

Sec. 16-126. Indemnification.

By registering with the City, or by accepting a permit under this chapter, a registrant or Permittee, as the case may be, agrees to indemnify, defend, and hold harmless the City, its officers, boards, committees, commissions, elected officials, employees and agents (collective, "Indemnified Parties"), from and against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon an Indemnified Party for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused

by or resulting from the permittee's acts or omissions in the exercise of its rights under this permit, whether caused by or contributed to by the City or its agents or employees except in such cases where caused by the sole negligence or willful misconduct of the City.

Sec. 16-127. Abandoned facilities.

(a) *Discontinued operations.* A registrant who discontinues its operations in the City must either:

- (1) Provide information satisfactory to the Department that the registrant's obligations for its facilities under this chapter have been lawfully assumed by another registrant; or
- (2) Submit to the Department a proposal and instruments for dedication of its facilities to the City. If a registrant proceeds under this clause, the City may, at its option:
 - a. accept the dedication for all or a portion of the facilities; or
 - b. require the registrant, at its own expense, to remove the facilities in the right-of-way at ground or aboveground; or
 - c. require the registrant to post a bond or provide payment sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the facilities.

However, any registrant who has unusable and abandoned facilities in any right-of-way shall remove it from the right-of-way within two years, unless the Department waives this requirement.

(b) *Abandoned facilities.* Facilities of a registrant who fails to comply with Sec. 16-127 subd (a), and which, for two (2) years, remains unused shall be deemed to be abandoned. Abandoned facilities may be deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the City may, at its option (i) abate the nuisance, (ii) take possession of the facilities, and/or (iii) require removal of the facilities by the registrant, or the registrant's successor in interest.

(c) *Public utilities.* This section shall not apply to a Public Utility that is required to follow the provisions of Wis. Stat. § 196.81.

Sec. 16-128. Reservation of regulatory and police powers.

The City, by granting of a permit to excavate, obstruct and/or occupy the right-of-way, or by registering a person

under this chapter does not surrender or to any extent lose, waive, impair, or the lawful powers and rights, which it has now or maybe hereafter granted to the City under the Constitution and statutes of the State of Wisconsin to regulate the use of the right-of-way by the Permittee; and the Permittee by its acceptance of a permit to excavate, obstruct and/or occupy the right-of-way or of registration under this chapter agrees that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise thereof by the City at any time. A Permittee or registrant is deemed to acknowledge that its rights are subject to the regulatory and police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general law, and ordinances enacted by the City pursuant to such powers.

Sec. 16-129. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or constitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Editor's Note: Article IV. was created by Ord. 23-17, adopted on February 15, 2017 and becoming effective on February 21, 2017.

Secs. 16-130 – Sec. 16-150. Reserved.

(The next page is 1103.)

TRAFFIC AND VEHICLES

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Traffic and Vehicles

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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.

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ARTICLE II. REGULATIONS FOR SPECIFIC STREETS

DIVISION 1. GENERALLY

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.

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.

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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).

Southbound traffic entering Edgewood Drive (CTH "JJ") from the driveway located 650 feet east of Ballard Road (CTH "E").

Southbound traffic entering Edgewood Drive (CTH "JJ") from the driveway located 300 feet east of Ballard Road (CTH "E").

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; Ord 71-17, §1, 10-10-17))

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

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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)

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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-

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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 or recreational vehicle, as defined in Sec. 19-92 above, 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 or recreational vehicle, defined in Sec. 19-92 above, 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; Ord 60-17, §1, 9-26-17)

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

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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, pay stations and mobile parking apps – 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 as well as the use of mobile parking apps. 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 the required funds whether directly in the meter, via pay station or app, and the person may use the parking space for the vehicle

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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 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, parking pay station and mobile parking app 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

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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; Ord 58-17, §1, 9-12-17)

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).

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(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.

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(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 the west City limits to the east City limits.

Commercial Street from Meade Street to Rankin Street.

Conkey Street from Pershing Street to Venture Drive.

Douglas Street from Spencer Street to Melvin Street.

Eisenhower Drive from Midway Road to Calumet Street (CTH KK).

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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.

Franklin Street from Richmond Street (STH 47) to Appleton Street.

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.

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Quest Drive from Plank Road to Midway Road.	Woods Edge Drive from College Avenue to the north end.
Radio Road from College Avenue (CTH CE) to Warehouse Road.	Zuehlke Drive from Winslow Avenue to Goodland Drive.
Rankin Street from Commercial Street to Wisconsin Avenue.	(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; Ord 15-17, §1, 1-10-17)
Richmond/Memorial (State Trunk Highway 47) from the north City limits to the south City limits.	Cross reference(s) - Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.
Roemer Road from Glendale Avenue to Capitol Drive.	Secs. 19-138 – 19-160. Reserved.
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 Appleton Street to Morrison 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.	

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 or in 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 in 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.

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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 facilities provided the manager is authorized to make decisions which govern the operation of the facility, make major capital investment recommendations, initiate and direct comprehensive measures to assure long-term compliance with environmental laws, can ensure the necessary systems are established to gather complete and accurate information for the report and where authority to sign documents has been delegated to the manager according to the corporation's 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, wrecked 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

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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; Ord 32-17, §1, 6-13-17)

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 (140°) F (60° 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 (150°) F (65° 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 (104°) F (40° 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

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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 403.6(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

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protect against pass through and interference. No person shall discharge wastewater containing in excess of the following:

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; Ord 33-17, §1, 6-13-17)

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,

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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.

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DIVISION 3. PRETREATMENT OF WASTEWATER

- (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.

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.

The Director of Utilities shall evaluate whether such significant industrial user needs an accidental discharge/slug control plan within one (1) year of being designated a significant industrial user. 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; Ord 34-17, §1, 6-13-17)

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 as 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 plant 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.

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(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;

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- (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

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contributing municipality that are discharging to the POTW; and

agreement.
(Ord 60-94, §1, 5-4-94)

- (3) Such other information as the Director of Utilities may deem necessary.

Secs. 20-124 – 20-140. Reserved.

(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

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,

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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) Users will notify the Director of Utilities immediately of any changes at its facility affecting the potential for a slug discharge or 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.
(Ord 35-17, §1, 6-13-17)

(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. Where the City has performed the original sampling and analysis in lieu of the industrial user, as allowed in NR 211.15(9), Wis. Adm. Code, to perform repeat analysis.
(Ord 60-94, §1, 5-4-94; Ord 36-17, §1, 6-13-17)

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 quantities 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

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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 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.
(Ord 37-17, §1, 6-13-17)

(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

(Ord 60-94, §1, 5-4-94)

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.

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.

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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. A significant industrial user has been in significant non-compliance if any of the following apply; and, a non-significant industrial user has been in significant non-compliance if (3), (4) or (8) apply:

- (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 forty-five (45) 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;

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- (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.

(Ord 38-17, §1, 6-13-17)

Secs. 20-172 – 20-175. Reserved.

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.

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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.
- h. LOMR – Case #17-05-1963P. Floodplain revisions on Outagamie County Flood Insurance Study (FIS) AAL Tributary Cross Section C, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0336D, effective September 29, 2017. This reflects changes along the AAL Tributary from just downstream of Lightning Drive to approximately 200 feet upstream of East Glenhurst Lane.

(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.

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- (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.

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(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; Ord 55-17, §1, 8-8-17)

Secs. 23-207 – 23-220. Reserved.

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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