

**PART I**

**Charter Ordinances**

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

**ARTICLE II. ELECTED OFFICIALS**

Enumeration, terms, etc.....2-1  
Spring primary.....2-2  
Wards .....2-3  
Reserved.....2-4

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

**DIVISION 1. GENERALLY**

Reserved.....3-1 – 3-99

**DIVISION 2. PLAN COMMISSION**

Created.....3-100  
Powers and duties; qualifications .....3-101  
Membership .....3-102  
Appointment; terms of members .....3-103  
Citizen members; compensation of members .....3-104  
Organization; records .....3-105  
Reserved.....3-106 – 3-130

**DIVISION 3. BOARD OF REVIEW**

Membership; meetings; compensation of members.....3-131  
Reserved.....3-132 – 3-160

**DIVISION 4. RESERVED**

Reserved .....3-161

**ARTICLE IV. DEPARTMENTS**

**DIVISION 1. GENERALLY**

Reserved.....4-1 – 4-99

**DIVISION 2. HUMAN RESOURCES DEPARTMENT**

Created.....4-100  
Office of the Director of Human Resources – created .....4-101  
Same – appointment of director .....4-102  
Same – term .....4-103  
Same – duties of director.....4-104  
Reserved.....4-105 – 4-160

**DIVISION 3. FINANCE**

Duties of Director of Finance.....4-161  
Creation of office not to affect other offices .....4-162

**ARTICLE V. PERSONNEL**

**DIVISION 1. GENERALLY**

Reserved.....5-1 – 5-99

**DIVISION 2. WISCONSIN MUNICIPAL RETIREMENT FUND**

Participation generally .....5-100

**ARTICLE VI. FIRE PROTECTION**

**DIVISION 1. GENERALLY**

Reserved.....6-1 – 6-99

**DIVISION 2. FIRE PERMITS**

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

**ARTICLES VII – X. RESERVED**

**ARTICLE XI. UTILITIES**

**DIVISION 1. GENERALLY**

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

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

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

**ARTICLE I. IN GENERAL**

**(RESERVED)**

**ARTICLE II. ELECTED OFFICIALS\***

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

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

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

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

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

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

(Code 1965, §1.02, Ord 54-04, §1, 6-1-08; Ord 45-11, §1, 4-18-11)

\***Cross references** – Elections, §2-391 et seq. officers and employees, §2-216 et seq.

**Sec. 2-2. Spring primary.**

A spring primary shall be held for the nomination of candidates for City office whenever three (3) or more candidates file nomination papers for any City office.

(Ord 3-08, §1, 4-11-08)

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

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

**Sec. 2-3. Wards.**

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

- (1) **Ward 1.** The first ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of College Avenue and Richmond Street and being the point of beginning; thence North on Richmond Street to Atlantic Street; thence East on Atlantic Street to Drew Street; thence South on Drew Street to College Avenue; thence West on College Avenue to the point of beginning.
- (2) **Ward 2.** The second ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Atlantic Street and Richmond Street and being the point of beginning; thence North on Richmond Street to Parkway Boulevard; thence East on Parkway Boulevard to Oneida Street; thence South on Oneida Street to Wisconsin Avenue; thence East on Wisconsin Avenue to Drew Street; thence South on Drew Street to Atlantic street; thence West on Atlantic Street to the point of beginning.
- (3) **Ward 3.** The third ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Franklin Street and Drew Street and being the point of beginning; thence North on Drew Street to Wisconsin Avenue; thence East on Wisconsin Avenue to Ballard Road; thence South on Ballard Road and the Southerly extension thereof to the main channel of the Fox River; thence Southwesterly along the main channel of the Fox River to the College Avenue Bridge; thence Northwesterly and West along the College Avenue Bridge and College Avenue to Rankin Street; thence North on Rankin Street to Washington Street; thence West on Washington Street to Union Street; thence North on Union Street to Franklin Street; thence West on Franklin Street to the point of beginning.
- (4) **Ward 4.** The fourth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Wisconsin Avenue and Randall Avenue and being the point of beginning; thence Northeasterly on Randall Avenue to McDonald Street; thence North on McDonald Street to Marquette Street; thence East on Marquette Street

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

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

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

(7) **Ward 7.** The seventh ward shall include and contain all that portion of territory lying within the following confines: Commencing at the

intersection of John Street and Weimer Street and being the point of beginning; thence North on Weimar Street to Forest Street; thence East on Forest Street to Kensington Drive; thence North on Kensington Drive to College Avenue; thence East on College Avenue to the corporate limits; thence Southerly and Easterly along the corporate limits to the Northeast corner of Calumet Street and Coop Road; thence Southerly along the corporate limits to the center of Calumet Street; thence West along Calumet Street to Kensington Drive; thence North and Northwesterly on Kensington Drive to Rail Road; thence Southwesterly on Rail Road to Chickadee Lane; thence Northwesterly on Chickadee Lane to Bona Avenue; thence West on Bona Avenue to Midpark Drive; thence South and Southwesterly on Midpark Drive to John Street; thence Northwesterly on John Street to the point of beginning.

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

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

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

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

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

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

limits.

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

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

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

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

- (16) **Ward 16.** The sixteenth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Northland Avenue and the corporate limits in the SE ¼ of Section 14, T.21N., R.17E. and being the point of beginning; thence North and then continue in a clockwise direction along the Corporate limits to the East line of the NW ¼ of said Section 14; thence North along the East line of the NW ¼ of said Section 14 to U.S.H. "41"; thence East on U.S.H. "41" to Meade Street; thence South on Meade Street to Northland Avenue; thence West on Northland Avenue to the point of beginning.
- (17) **Ward 17.** The seventeenth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Northland Avenue and Meade Street and being the point of beginning; thence North on Meade Street to Capitol Drive; thence East on Capitol Drive to Ballard Road; thence South on Ballard Road to Northland Avenue; thence West on Northland Avenue to the point of beginning.
- (18) **Ward 18.** The eighteenth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Capitol Drive and Meade Street and being the point of beginning; thence North on Meade Street to U.S.H. "41"; thence East on U.S.H. "41" to Ballard Road; thence South on Ballard Road to Capitol Drive; thence West on Capitol Drive to the point of beginning.
- (19) **Ward 19.** The nineteenth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of U.S.H. "41" and the corporate limits in the NE ¼ of Section 15, T.21N., R.17E.

and being the point of beginning; thence North and then continue in a clockwise direction along the corporate limits to Apple Creek Road; thence Easterly along Apple Creek Road to Meade Street; thence South on Meade Street to U.S.H. "41"; thence West on U.S.H. "41" to the point of beginning. Excepting all that land along Alvin Street, Evergreen Drive and Richmond Street not currently within the corporate limits.

- (20) **Ward 20.** The twentieth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Apple Creek Road and the Corporate limits at the West line of the NE ¼ of Section 11, T.21N., R.17E and being the point of beginning; thence North and then continue in a clockwise direction along the corporate limits to the East line of Meade Street; thence South along the East line of Meade Street 1320 feet m/l; thence West to centerline of Meade Street; thence South on Meade Street to Edgewood Drive; thence East on Edgewood Drive to the corporate limits; thence South and then continue in a clockwise direction along the corporate limits to its confluence with the North line of Melody Lane; thence East along the North line of Melody Lane to Ballard Road; thence South on Ballard Road to U.S.H. "41"; thence West on U.S.H. "41" to Meade Street; thence North on Meade Street to Apple Creek Road; thence Westerly on Apple Creek Road to the point of beginning. Excepting all that land along Schuh Road, Edgewood Drive and Meade Street not currently within the corporate limits.
- (21) **Ward 21.** The twenty-first ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Edgewood Drive and Meade Street and being the point of beginning; thence North on Meade Street 660 feet m/l to the Westerly extension of the corporate limits; thence East and then continue in a clockwise direction along the corporate limits to Edgewood Drive; thence West on Edgewood Drive to the point of beginning.  
And  
Commencing at the corporate limits located at the Northwest corner of Melody Lane and Ballard Road and being the point of beginning; thence North and then in a clockwise direction along the corporate limits to Broadway Drive; thence East on Broadway Drive to Ballard Road; thence South on Ballard Road to the Southwesterly extension of the corporate limits along the Southerly line of Apple Creek Road; thence Northeasterly along

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

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

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

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

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

South River Street to East Street; thence Southeasterly and South on East Street to Fremont Street; thence East on Fremont Street to Walden Avenue; thence South on Walden Avenue to Calumet Street; thence West on Calumet Street to Jefferson Street; thence North on Jefferson Street to South River Street; thence West on South River Street to Olde Oneida Street; thence Northerly on Olde Oneida Street and the Olde Oneida Street Bridge to the point of beginning.

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

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

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

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

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

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

(31) **Ward 31.** The thirty-first ward shall include and contain all that portion of territory lying within the following confines: Commencing at the Southwest corner of Oakwood Heights Plat and being the point of beginning; thence North along the West line of said Plat to the Northwest corner; thence East along the North line of said Plat to the West line of Kerry Lane; thence North along the West line of Kerry Lane to Wilson Avenue; thence East on Wilson Avenue to the corporate

limits; thence South and East along the corporate limits and the Assessor's Plat Number One (1) to Oneida Street; thence South on Oneida Street to the South line of tax parcel number 31-8-1500-00 (near the intersection of Hoover Street and Oneida Street); thence West 400.14 feet more or less along the South line of said tax parcel number 31-8-1500-00, to the Northeast corner of tax parcel number 31-8-1500-01; thence South 326.7 feet more or less along the East line of said tax parcel to the Southeast corner thereof; thence Westerly 899 feet more or less to the point of beginning.

(32) **Ward 32.** The thirty-second ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of the North line of State Highway "441" and Memorial Drive and being the point of beginning; thence North on Memorial Drive and following the corporate limits in a clockwise direction to the Outagamie/Winnebago County line; thence East on the Outagamie/Winnebago County line to the corporate limits at the North ¼ corner of Section 1, T.20N., R.17E.; thence South and then following the corporate limits in a clockwise direction to the West line of Oakwood Heights Plat; thence South and East along said Plat line to the East line of Kerry Lane; thence East along the South line of the Replat of Lots 42-51 of Oakwood Heights Plat and the extension thereof to the East line of tax parcel number 31-8-1500-01; thence North along the East line of said tax parcel number 31-8-1500-01, to the South line of tax parcel number 31-8-1500-00; thence East along the South line of said tax parcel number 31-8-1500-00 to Oneida Street; thence South on Oneida Street to State Highway "441" and the corporate limits; thence continuing in a clockwise direction along the corporate limits to the point of beginning.

And

The thirty-second ward shall include and contain all that portion of territory lying within the following confines: A part of Lot 2 of Certified Survey Map No. 339 as recorded in Volume 2 of Certified Survey Maps on page 339 as Document No. 845581, located in the City of Appleton, Winnebago and Outagamie County, Wisconsin, described as follows: All that part of said Lot 2 within Winnebago County.

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

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

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

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

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

beginning.

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

(38) **Ward 38.** The thirty-eighth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Ballard Road, the Canadian National Railroad and the corporate limits and being the point of beginning; thence North on Ballard Road to a point 660 feet m/l North of the South line the SW  $\frac{1}{4}$  of Section 6, T.21N., R.18E.; thence East and then continue in a clockwise direction along the corporate limits to the S  $\frac{1}{4}$  of Section 6, T.21N., R.18E. and Edgewood Drive; thence East on Edgewood Drive to French Road; thence South on French Road to the corporate limits; thence continue South and in clockwise direction along the corporate limits to the point of beginning. Excepting all those lands within the above-described traverse on Evergreen Drive, Evergreen Court, Ballard Road and Edgewood Drive not within the corporate limits.

(39) **Ward 39.** The thirty-ninth ward shall include and contain all that portion of territory lying within the following confines: Commencing at the W  $\frac{1}{4}$  corner of Section 8, T.21N., R.18E and being the point of beginning; thence North on French Road to Edgewood Drive; thence West on Edgewood Drive to the S  $\frac{1}{4}$  corner of Section 6, T.21N., R.18E. and also the corporate limits; thence North and continue in a clockwise direction along the corporate limits to the Center of said Section 8; thence West along the South line of the NW  $\frac{1}{4}$  of said Section 8 to the point of beginning. Excepting all those lands within the above-described traverse on French Road not within the corporate limits.

And

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

the corporate limits to the point of beginning.

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

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

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

(43) **Ward 43.** The forty-third ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of Glendale Avenue and Division Street and being the point of beginning; thence

North on Division Street to Marquette Street; thence East on Marquette Street to Oneida Street; thence North on Oneida Street to Northland Avenue; thence East on Northland Avenue to Meade Street; thence South on Meade Street to Glendale Avenue; thence West on Glendale Avenue to Oneida Street; thence North on Oneida Street to Glendale Avenue; thence West on Glendale Avenue to the point of beginning.

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

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

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

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

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

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

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

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

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

thence East on Glendale Avenue to Oneida Street; thence South on Oneida Street to Glendale Avenue; thence East on Glendale Avenue to Meade Street; thence South on Meade Street to Wisconsin Avenue; thence West on Wisconsin Avenue to Oneida Street; thence North on Oneida Street to Parkway Boulevard; thence West on Parkway Boulevard to the point of beginning.

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

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

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

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

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

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

(57) **Ward 57.** The fifty-seventh ward shall include and contain all that portion of territory lying within the following confines: Commencing at the intersection of the College Avenue, the West line of Lilas Drive and the corporate limits and being the point of beginning; thence North and continue in a clockwise direction along the corporate limits to the Canadian National Railroad

located near the East line of the SE ¼ of Section 28, T.21N., R.17E.; thence South along the Canadian National Railroad to College Avenue; thence West on College Avenue to the point of beginning.

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

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

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

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

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

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

**DIVISION 1. GENERALLY**

**Secs. 3-1 – 3-99. Reserved.**

**DIVISION 2. PLAN COMMISSION**

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

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

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

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

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

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

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

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

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

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

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

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

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

Development other than the director as recording secretary. The Plan Commission shall keep a written record of its proceedings to include all actions taken. The Plan Commission shall report to the Common Council all actions taken requiring approval by the Common Council. Four (4) members shall constitute a quorum.

(Code 1965, §1.04(7)(e); Ord 136-96, §1, 12-18-96)

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

\*\*Code cross reference – Subdivisions, Ch. 17.

**Secs. 3-106 – 3-130. Reserved.**

### **DIVISION 3. BOARD OF REVIEW\***

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

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

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

[ (c) The compensation of board members shall be determined annually by the Finance Committee and approved by the Common Council.]

(Code 1965, §1.04(6); Ord 84-08, §1, 5-27-08; Ord 73-10, §1, 7-11-10; Ord 79-10, §1, 7-24-10; Ord 126-11, §1, 7-9-11)

**Secs. 3-132 – 3-160. Reserved.**

**DIVISION 4. RESERVED\*\***

**ARTICLE IV. DEPARTMENTS\***

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

**DIVISION 1. GENERALLY**

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

**Sec. 4-1 – 4-99. Reserved.**

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

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

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

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

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

**DIVISION 2. HUMAN RESOURCES  
DEPARTMENT\*\***

**Secs. 4-105 – 4-160. Reserved.**

**Sec. 4-100. Created.**

There is hereby created a Department of Human Resources in the City of Appleton, to be under the supervision of a Director of Human Resources, with such other personnel as is needed to fulfill the functions of the Department.

(Ch. Ord 56-65, §1, (1) 8-5-65)

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

The office of the Director of Human Resources is hereby created, pursuant to §62.09(1)(a) Wisconsin Statutes, and the manner of selection of said Director of Human Resources shall be hereinafter provided.

(Ch. Ord 56-65, §1 (2), 8-5-65)

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

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

(Ch. Ord 56-65, §1(3), 8-5-65)

**Sec. 4-103. Same – term.**

The Director of Human Resources shall hold office for an indefinite period of time, subject to removal for cause by a simple majority of the Common Council. The term “cause” as herein used is defined as inefficiency, negligence of duty, official misconduct or malfeasance in office or moral turpitude.

(Ch. Ord 56-65, §1(4), 8-5-65)

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

The Director of Human Resources shall be under the jurisdiction of the Human Resources Committee and shall perform such duties as the job classification specifies or as the Council directs.

(Ch. Ord 56-65, §1(5), 8-5-65; Ord 84-08, §1, 5-27-08; Ord 75-10, §1, 7-11-10; Ord 128-11, §1, 7-9-11)

\***Cross reference** – Departments, §2-316 et seq.

\*\***Cross reference** – Director of administrative services, personnel, §2-231, et seq.

**DIVISION 3. FINANCE\***

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

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

(Ch. Ord of 9-14-83, §3)

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

The creation of this office shall not infringe upon the statutory duties of the City Clerk as prescribed in the Wisconsin Statutes.

(Ch. Ord 9-14-83, §4)

**Cross reference** – Duties of chief finance officer, §2-248.

**ARTICLE V. PERSONNEL**

**DIVISION 1. GENERALLY**

**Secs. 5-1 – 5-99. Reserved.**

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

**DIVISION 2. WISCONSIN MUNICIPAL  
RETIREMENT FUND**

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

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

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

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

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

**ARTICLE VI. FIRE PROTECTION.**

**DIVISION 1. GENERALLY**

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

**DIVISION 2. FIRE PERMITS**

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

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

**ARTICLES VII – X. RESERVED.**

**ARTICLE XI. UTILITIES**

**DIVISION 1. GENERALLY**

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

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

(Ch. Ord of 11-15-33)

*(The next page is 75.)*

(Code 1965, §23.032)(a); Ord 17-05, §1, 3-8-05; Ord 78-06, §1, 6-13-06)

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

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

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

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

(c) The owner of any dog, cat or ferret involved in a bite or scratch incident is responsible for any expenses incurred.

(Code 1965, §23.03(2)(d); Ord 17-05, §1, 3-8-05)

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

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

The provisions of W.S.A. Chapter 173, §95.21 and Chapter 174, exclusive of any penalties, are adopted by reference and are made part of this chapter, so far as applicable.

(Code 1965, §23.01)

**State law reference(s)** – Rabies control, W.S.A. §95.21; dogs, W.S.A. ch. 174.

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

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

(Code 1965, §23.18)

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

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

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

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

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

(c) **Appeal.** Appeal from the decision of the Health Officer or other official shall be as provided in section 173.11 of the Wisconsin Statutes.

(Ord 17-05, §1, 3-8-05)

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

No person shall knowingly resist, obstruct or interfere with any police dog while the dog is on duty in pursuit of its police duties. Any police dog shall be exempt from the provisions of the animal control ordinance and other City ordinances, including quarantine periods after a bite, while on duty.

(Editor’s Note: This section replaces §10-11, which has been deleted.)

(Ord 17-05, §1, 3-8-05)

**Secs. 3-25 – 3-50. Reserved.**

## ANIMALS

### ARTICLE II. LICENSES

#### DIVISION I. GENERALLY

##### Sec. 3-51. Issuance.

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

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

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

##### Sec. 3-52. Restricted species.

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

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

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

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

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

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

Supp. #86

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.

**ARTICLE I. IN GENERAL**

**Sec. 9-1. Exemptions from chapter.**

(a) All lectures, addresses, concerts, literary, theatrical and musical events and other entertainment and performances sponsored by, for the sole benefit of, or performed by local churches, schools, and educational, municipal and religious institutions are exempted from the provisions of this chapter. Such events sponsored by or performed by or for the benefit of local benevolent and fraternal associations and nonprofit civic associations are also exempt from the provisions of this chapter provided that attendance at the event is limited to members only.

(b) This chapter shall not apply to the owner of a billboard, illuminated sign or other contrivance used by him solely to advertise his business or maintained upon the premises in which his business is conducted, nor to any person engaged in business in the City distributing matter advertising only his own business.  
(Code 1965, §11.01(5), Ord 57-09, §1, 4-28-09)

**Sec. 9-2. Fraudulent advertising.**

No person shall, with intent to sell or dispose of real estate, merchandise, securities, service or anything offered by such person, publish or distribute any advertisement pertaining thereto which contains any assertion, representation or statement of fact which is untrue, deceptive or misleading.  
(Code 1965, §11.01(7))

**Secs. 9-3 – 9-20. Reserved.**

**ARTICLE II. LICENSES AND PERMITS  
GENERALLY**

**Sec. 9-21. Generally.**

Unless otherwise specifically provided, licenses and permits required for the carrying on of a business or trade within the City shall be applied for, issued, terminated and revoked according to the provisions of this article.  
(Code 1965, §11.01(1))

**Sec. 9-22. Application.**

(a) Every application for a license or permit shall be made upon a form furnished by the City Clerk and verified and shall contain the name, place of residence, age and occupation of the applicant and the purposes for which he proposes to carry on the business or trade to be licensed. A receipt of the Director of Finance showing a license or permit fee has been paid must be presented to the City Clerk with the application. Application filing deadlines shall be on file in the City Clerk's office.

(b) Providing false or inaccurate information on any application or in the investigation of any application may constitute an admission by the applicant that he or she is ineligible for such license and may be grounds for denial of the application.  
(Code 1965, §11.01(2); Ord 4-93, §1, 1-6-93; Ord 2-94, §1, 1-5-94, Ord 129-03, §1, 8-12-03)

**Sec. 9-23. Issuance generally; display.**

(a) Licenses and permits, when granted, shall be issued by the City Clerk and shall state the date thereof, the day from which the license or permit shall be in force, the name, place of residence and place of business of the person to whom the license or permit is issued, the particular purpose and the time for which issued and the amount of fee paid. The City Clerk shall keep all such applications on file and keep a record of all licenses and permits issued. Each license or permit issued shall be separately displayed on the premises or vehicle for which issued.

(b) The City Clerk shall be charged with the enforcement of all ordinances relating to licenses unless other provision is made by the Common Council for the enforcement.

(c) **DELINQUENT DEBTS OWED TO THE CITY.**  
The following are conditions precedent to the issuance of any licenses or permits provided under this code.

- (1) The payment of all delinquent and unpaid personal property taxes and room taxes imposed pursuant to Wisconsin Statutes or this code and all other delinquent and unpaid claims of the

## LICENSES, PERMITS AND BUSINESS REGULATIONS

City including assessments, special charges, municipal utility charges, invoices or judgments due and owing from the applicant to the City at the time the license or permit is issued. The "applicant" includes a natural person, corporation, limited liability company, partnership, limited partnership, association, cooperative or any other entity making application for a license or permit in the name of that entity.

- (2) The payment of all delinquent and unpaid personal property taxes and room taxes imposed pursuant to Wisconsin Statutes or this code and delinquent and unpaid claims of the City including assessments, special charges, municipal utility charges, invoices or judgments relating to the property or relating to the previously licensed business if the new license or permit is granted conditionally upon, or subsequent to, the sale or transfer of the business or stock in trade or furnishings or equipment of the premises or the sale or transfer of ownership or control of a corporation.  
(Ord 83-15, §1, 10-27-15)

(d) Alleged errors in amounts claimed to be due the City may be appealed to the Finance Committee. The Committee shall have no authority to review any matter for which a review or appeal procedure has been provided by state statute or other ordinance. Within five (5) days of being informed of an amount claimed due, the person seeking review shall file a written notice of appeal with the Director of Finance stating the basis for the appeal and specifying the alleged error. Upon providing due notice, the Committee shall hold a hearing at which the applicant may be represented by counsel and both the City and the applicant shall have the opportunity to present witnesses, cross-examine witnesses and present other evidence pertaining to the claimed error. After holding the hearing, the Committee shall by majority vote make findings of fact and issue its conclusion regarding the alleged error. Any established error shall be promptly corrected.

(e) No license or permit shall be issued until the Director of Finance or designee thereof has notified the City Clerk in writing that all required payments have been made. (Code 1965, §11.01(3); Ord 73-91, §§2, 3, 8-7-91; Ord 4-93, §1, 1-6-93; Ord 84-08, §1, 5-27-08; Ord 70-10, §1, 5-11-10; Ord 125-11, §1, 5-10-11; Ord 15-14, §1, 4-22-14)

### **Sec. 9-24. Licenses not requiring Council approval.**

Pawnbroker licenses, commercial solicitation licenses, charitable solicitation licenses, mechanical amusement device licenses, Christmas tree dealer licenses and special events may be issued automatically by the City Clerk

without committee and Common Council approval, if all departments recommend approval.  
(Code 1965, §11.02(4); Ord 3-94, §1, 1-5-94, Ord 102-02, §1, 7-9-02; Ord 58-09, §1, 4-28-09)

**Cross references** - Amusement devices, §9-126 et seq.; peddlers, solicitors, etc., §9-586 et seq.

### **Sec. 9-25. Special issuance by Mayor.**

Whenever an applicant for a license or permit shall by his application make it appear that if he is entitled to such license or permit it ought to be issued before the next meeting of the Common Council, the Mayor may, except when otherwise specifically provided, by an order signed by him, direct the City Clerk to issue such license or permit, to be effective only until the next meeting of the Common Council, when the City Clerk shall report the application and the action thereon. The Common Council may then approve, modify or rescind such license or permit.

(Code 1965, §11.01(6))

### **Sec. 9-26. Appeal of denial.**

If the investigating authority denies an application for a license or permit, the City Clerk shall forthwith notify the applicant by certified mail of the recommendation for denial and the reason therefor. The notice shall indicate that the applicant has the right to appeal the decision, but must contact the City Clerk's Office within thirty (30) days of receipt of the letter to schedule the appeal of the denial before the Safety and Licensing Committee. The Safety and Licensing Committee shall hear any person for or against the granting of the license or permit and shall report its recommendation to the Common Council, which shall grant or deny the license or permit.

(Ord 108-04, §1, 8-10-04; Ord 69-09, §1, 6-9-09; Ord 75-15, §1, 9-22-15)

### **Sec. 9-27. Transfer; issuance to or use by agent or employee.**

No license or permit may be transferred unless otherwise provided by the ordinances of the City. No license or permit shall be issued to or used by any person acting as agent for or in the employ of another.

(Code 1965, § 11.01(11))

### **Sec. 9-28. Expiration.**

Except where otherwise provided, every license or permit shall terminate or expire on June 30 of each year.

(Code 1965, §11.01(4))

### **Sec. 9-29. Revocation or suspension.**

(a) **Causes.** Licenses or permits may be revoked or suspended by the Common Council for the causes provided

in this section unless otherwise provided by state statutes or the ordinances of the City:

- (1) The violation by the licensee or permittee or his agent or employee of any law of the United States or of the state relating to the particular trade, occupation or business so licensed.
- (2) The violation of this chapter or of any other ordinance, regulation or bylaw of the City relating to such particular trade, occupation or business, including, but not limited to, all plumbing, building, electrical and heating codes and parking lot regulations of this Code.
- (3) The violation of any statute, ordinance or law, when the circumstances of the violation, arrest or conviction substantially relates to the licensed activity.

(b) **Procedure.** The manner of revocation or suspension shall be as follows:

- (1) A complaint shall be made in writing by the Chief of Police or by any person to the Common Council. A copy of the complaint, accompanied by a notice or summons signed by the City Clerk stating the time and place when and where the complaint will be heard before the Common Council or a committee thereof shall be served on the licensee or permittee complained of. The summons shall command the licensee or permittee complained of to appear before the Common Council or a committee thereof on a day and place named in the summons, not less than three (3) days and not more than ten (10) days from the date of issuance, and show cause why his license or permit should not be revoked or suspended.
- (2) At the time and place so named in such notice or summons, the accused may appear in person with or without counsel and shall be fully heard by the Common Council or a committee thereof in his defense on the complaint and the proof which may be submitted in support thereof. On motion of either interested party, the Common Council or committee in its discretion may adjourn the hearing from time to time. After such hearing, the Common Council or committee shall determine whether cause for revocation or suspension exists. If such cause is found to exist, the Common Council may revoke or suspend such license or permit.

(Code 1965, §11.01(8), (9))

**State law reference(s)**--Administrative procedures, W.S.A. §68.01 et seq.

**Sec. 9-30. Miscellaneous license fees.**

A license shall be required to exhibit, operate or conduct the following businesses. The fee for said license shall be on file with the City Clerk.

- (1) Sale of cigarettes.
- (2) Christmas tree dealers.
- (3) Pawnbroker. W.S.A. §138.10 relating to pawnbrokers is hereby adopted and made a part of this section by reference.
- (4) Pet stores (as defined in §3-1).
- (5) Kennels (as defined in §3-1).

(Code 1965, §11.02(1); Ord 82-90, §1, 9-20-90; Ord 141-91, §1, 12-4-91; Ord 4-94, §1, 1-5-94. Ord 31-97, §1, 4-16-97; Ord 59-09, §1, 4-28-09)

**Cross reference(s)**--Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; Christmas tree sales, §9-566 et seq.

**Sec. 9-31. Miscellaneous licenses.**

(a) The license fee for a carnival shall be on file in the City Clerk's Office. All applications for a license for a carnival or similar exhibition must be considered by the Common Council. No special license shall be issued.

(b) The license fee for a circus, including menagerie and sideshows under one (1) management, for one (1) day including the evening, shall be on file in the City Clerk's Office.

(c) Unless otherwise provided, all licenses granted and issued under this subsection are subject to the prior approval of the Common Council, and in determining the suitability of the license, consideration shall be given to the financial responsibility of the applicant, the appropriateness of the location and premises proposed, and, generally, the applicant's fitness for the trust to be reposed, together with the type and nature of the event in relation to demand for municipal services such as police, fire, inspection, sanitation and parking. The applicant may be required to post a cash bond or other security for the payment of the cost of required municipal services attributable to the event, together with a sufficient policy of insurance to cover damages to persons and property.

(d) Special events, as defined and governed by the Special Events Policy, shall be licensed. The license fees for a special event shall be on file in the City Clerk's Office. Penalties for holding a special event without a license, or violating the terms or conditions under which a license was applied for and granted, shall be set forth in §1-18.

LICENSES, PERMITS AND BUSINESS REGULATIONS

(e) Those licenses not issued automatically pursuant to Section 9-24 shall be issued by the City Clerk upon approval of the Safety and Licensing Committee and the Common Council. The license fees are on file in the office of the City Clerk.

(Code 1965, §11.02(2); Ord 72-89, §1, 6-7-89; Ord 17-91, §1, 2-20-91; Ord 141-91, §1, 12-4-91; Ord 5-94, §1, 1-5-94; Ord 71-96, §1, 8-7-96; Ord 63-98, §1, 6-17-98, Ord 52-99, §1, 8-22-99, Ord 103-02, §1, 7-9-02, Ord 122-03, §1, 7-2-03; Ord 51-10, §1, 2-9-10; Ord 62-10, §1, 4-13-10)

**Sec. 9-32. Refund of fees; replacement fee.**

License and permit fees listed in this article, except those covered by Article III of this chapter, shall not be refunded upon denial or withdrawal of the license application. A replacement fee shall be charged for any lost license. Said fee amount shall be on file in the City Clerk's office.

(Code 1965, §11.02(3); Ord 6-94, §1, 1-5-94)

**Sec. 9-33. Walks, curbs and other concrete work license.**

(a) *License required.* No person shall construct or repair any concrete walk, curb and gutter, driveway or pavement in any public right-of-way unless a license is obtained pursuant to this section. Property owners repairing the sidewalks on their own property are not required to obtain a license.

(b) *Application for license; issuance; term.* Any person required to be licensed under this section shall apply to the Department of Public Works for a license. The Department of Public Works shall issue an annual license to any qualified person. The license shall expire December 31.

(c) *License fee; bond and insurance.*

(1) Each applicant for a license shall deposit the required fee, the amount of which is on file in the City Clerk's Office, and a performance bond of two thousand dollars (\$2,000) ensuring that all the requirements set by the City will be obeyed and the City and any person in front of whose property an improvement is constructed will be indemnified against loss by reason of failure to observe any of the requirements set by the City.

(2) Workmen's compensation, property damage and public liability insurance equal to or greater than that required for small jobs requirements by the City shall be kept in force during the construction period. A certificate of insurance indicating the coverage required by this subsection shall be approved by the risk manager and filed with the City Clerk.

(d) *Revocation of license.* If any person holding a license shall violate any of the ordinances of the City relating to the construction of concrete improvements, the Common Council may, upon giving the offender two (2) days notice, revoke his license. After the license has been revoked the licensee shall not again receive a license within three (3) months of the date of revocation.

(Code 1965, §5.13(1)--(4); Ord 7-94, §1, 1-5-94; Ord 70-09, §1, 6-9-09; Ord 91-10, §1, 6-22-10)

**Cross reference(s)--**Streets, sidewalks and other public places, ch. 16.

**\*Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; alcohol and other drug abuse prevention committee, §2-61 et seq.; possession of open container of alcoholic beverage on public property restricted, §10-14; possession of alcoholic beverages in parks and recreation areas restricted, §13-78.

**State law reference(s)--**Alcoholic beverage licenses, W.S.A. §125.01 et seq.; alcoholic beverage licenses authority, W.S.A. §125.12(1); non-intoxicating beverages and soda water, W.S.A. §66.0433.

**Secs. 9-34 – 9-50. Reserved.**

**Sec. 9-78. Granting; term; transfer.**

Opportunity shall be given by the Common Council to any person to be heard for or against the granting of any license under this division. Upon the approval of the application by the Common Council, the City Clerk shall, upon the filing by the applicant of a receipt showing the payment of the required license fee to the Director of Finance, issue a license to the applicant. Each license shall be numbered in the order in which it is issued and shall contain the date of issuance, the fee paid and the name of the licensee. All licenses shall remain in force through June 30 after the granting thereof, unless sooner revoked. No license shall be transferable either as to licensee or location, except as provided by W.S.A. §125.04(12), and except that the Common Council may authorize a transfer of location if the licensed premises become unsuitable for occupancy.

(Code 1965, §11.03(7); Ord 4-93, §1, 1-6-93)

**Sec. 9-79. Appeal of denial.**

If the investigating authority denies an application for a license or grant under this division, the City Clerk shall forthwith notify the applicant by certified mail of the recommendation for denial and the reason therefor. The notice shall indicate that the applicant has the right to appeal the decision but must contact the City Clerk's Office within thirty (30) days of receipt of the letter to schedule the appeal before the Safety and Licensing Committee. The Safety and Licensing Committee shall hear any person for or against the granting of the license or grant and shall report its recommendation to the Common Council, which shall grant or deny the license or grant.

(Ord 45-01, §1, 2-12-01, Ord 108-04, §1, 8-10-04; Ord 75-09, §1, 6-9-09; Ord 76-15, §1, 9-22-15)

**Sec. 9-80. Posting; duplicates.**

(a) Every license and permit issued under this division shall be posted while in force in a conspicuous place in the room or place where fermented malt beverages or intoxicating liquors are kept for sale. No person shall post such license or permit or be permitted to post such license or permit upon premises other than those mentioned in the application, knowingly deface or destroy such license or permit, or remove such license or permit without the consent of the licensee or permit holder.

(b) Whenever a license or permit is lost or destroyed without fault of the holder or his agent or employee, a duplicate in lieu thereof under the original application shall be issued by the City Clerk on satisfying himself as to the facts, upon the payment of a fee, the amount of which is on file in the office of the City Clerk.

(Code 1965, §11.03(8); Ord 9-94, §1, 1-5-94)

**Sec. 9-81. Revocation.**

Any license issued under this division for the sale of fermented malt beverages or intoxicating liquors may be revoked under §9-29, §9-54 or W.S.A. §125.12. No license fee shall be refunded where a license is revoked. Whenever any license is revoked, at least six (6) months from the time of such revocation shall elapse before another license shall be granted for the same premises, and twelve (12) months shall elapse before any other license shall be granted to the person whose license was revoked.

(Code 1965, §11.03(10); Ord 76-09, §1, 6-9-09)

**Sec. 9-82. Improper exhibitions.**

(a) It shall be unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:

- (1) Expose his/her genitals, pubic area, perineum, anus, anal cleft or cleavage, anal region or pubic hair region with less than a fully opaque covering; or
- (2) Expose any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, perineum, anal region or pubic hair region; or
- (3) Exposes any portion of the female breast below a point immediately above the top of the areola thereof; or
- (4) Show the covered male genitals in a discernibly turgid state; or
- (5) To engage in or simulate sexual intercourse and/or sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

(b) For the purposes of this ordinance, the term "licensed premises" means any establishment licensed by the common council of the City of Appleton to sell alcohol beverages pursuant to Ch. 125, Stats. The term "licensee" means the holder of a retail "Class A", "Class B", Class "B", Class "A", "Class C" license granted by the Common Council of the City of Appleton pursuant to Ch. 125, Stats.

(c) The provisions of this ordinance do not apply to the following licensed premises: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide

LICENSES, PERMITS AND BUSINESS REGULATIONS

sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

(d) Any person, partnership or corporation who violates any of the provisions of this ordinance shall be subject to penalty as prescribed in §1-18 of this Municipal Code, in addition to liquor license suspension, revocation or renewal as provided by §9-29 of the Code and by §125.12, Wis. Stats. A separate offense shall be deemed committed on each day of which a violation occurs or continues.

(e) If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected. (Ord 95-95, §1. 9-20-95)

**Secs. 9-83 - 9-100. Reserved.**

**ARTICLE IV. AMUSEMENTS AND ENTERTAINMENT\***

**DIVISION 1. GENERALLY**

**Secs. 9-101 - 9-125. Reserved.**

**DIVISION 2. MECHANICAL AMUSEMENT DEVICES\*\***

**Sec. 9-126. Definition.**

For purposes of this division, a mechanical amusement device is a machine which upon the insertion of a coin or slug operates a game, contest or amusement, except music. A billiard table or pool table is a mechanical device for purposes of this division when operated commercially, whether it is coin-operated or not. (Code 1965, §11.11(1))

**Cross reference--**Definitions & rules of construction generally, §1-2.

**Sec. 9-127. Licenses generally.**

No person shall operate a mechanical amusement device, pool table or billiard table within the City without first obtaining the required licenses therefore from the City Clerk pursuant to §9-21 et seq. The City Clerk may issue such licenses upon compliance with this division and payment of the required fee. The annual license fee amount shall be on file in the office of the City Clerk. (Code 1965, §11.11(2); Ord 77-09, §1, 6-9-09)

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

**\*Cross reference(s)--**Permits required for certain amusements, §9-31; issuance of license, §9-2 et seq.

**State law reference--**Amusement places, license and regulation, W.S.A. §175.20.

**\*\*Cross reference(s)--**Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; issuance of license, §9-21 et seq.

**Sec. 9-128. Reserved.**

**Editor's Note:** Sec. 9-128, Machine license, was repealed by Ord 78-09, §1, 6-9-09.

**Sec. 9-129. Form of license; posting of license.**

The form of the license issued under this division shall be as the City Clerk may determine. The license shall be posted on the premises near where such amusement device is in operation and shall specify the number of devices licensed for the particular place. (Code 1965, §11.11(5))

**Secs. 9-130 – 9-150. Reserved.**

**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, DHS §195.03. (Code 1965, §7.21(2), Ord 22-03, §1, 1-21-03)

**DIVISION 1. GENERALLY**

**Secs. 9-361—9-385. Reserved.**

**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, DHS §195.01 through DHS §195.16, 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)

\***Cross references**--Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Secs. 9-344 – 9-360. 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))

Supp. #86

**Sec. 9-388. Investigation; issuance of license.**

(a) The City Clerk shall report an application for a license under this division to the Chief of Police, Health Officer, Fire Chief, Inspection Supervisor and the Director of Finance, who shall inspect or cause to be inspected such premises to determine whether the premises comply with all laws, ordinances, rules and regulations. The premises and all structures thereon shall be so situated and constructed that the business may be carried on in a sanitary manner, shall contain no fire hazards, and shall be arranged so that thorough inspection may be made at all times by the proper health, fire, building and police authorities.

(b) The Common Council shall issue a license to the applicant upon the approval of the application, after investigation, and the payment to the City of the license fee. No license shall be refused except for a specific reason. All licenses shall be numbered in the order in which they are issued and shall state clearly the location of the business, the date of issuance and expiration of the license, and the name and address of the licensee. No applicant to whom a license has been refused shall make further application until a period of at least six (6) months has elapsed since the last previous rejection, unless he can show that the reason for such rejection no longer exists.

(Code 1965, §11.05(3), (5); Ord 32-92, §1, 3-18-92; Ord 4-93, §1, 1-6-93; Ord 173-93, §1, 10-19-93; Ord 176-93, §1, 10-19-93; Ord 122-96, §1, 12-18-96)

**Sec. 9-389. Appeal of denial of license.**

If the investigating authority denies an application for a license under this division, the City Clerk shall forthwith notify the applicant by certified mail of the recommendation for denial and the reason therefor. The notice shall indicate that the applicant has the right to appeal the decision but must contact the City Clerk's Office within thirty (30) days of receipt of the letter to schedule an appeal of the denial before the Safety and Licensing Committee. The Safety and Licensing Committee shall hear any person for or against granting the license and shall report its recommendation to the Common Council, which shall grant or deny the license.

(Ord 108-04, §1, 8-10-04; Ord 77-15, §1, 9-22-15)

**Sec. 9-390. License fee.**

Every licensee under this division shall pay an annual license fee, the amount of which is on file in the office of the City Clerk.

(Code 1965, §11.05(6); Ord 11-94, §1, 1-5-94)

**Sec. 9-391. Nonconforming uses.**

Licensees under this division permitted in zoning

districts other than a heavy industry district as nonconforming uses shall confine their business to a building on the premises. If the licensee violates this section and his license is revoked, the right to use of the premises shall be limited to the uses permitted in the district in which the premises are located.  
(Code 1965, §11.05(4))

**Sec. 9-392. Change of place of business.**

Every license issued pursuant to this division shall designate the place of business in or from which the licensee shall be authorized to carry on such business. No licensee shall remove his place of business from the place designated in the license until a written permit has been secured from the City and such permission has been endorsed upon the license.  
(Code 1965, §11.05(7))

**Sec. 9-393. Probation.**

If any licensee under this division violates any provision of this division and the Common Council determines that the offense does not warrant revocation under §9-29, the Common Council may place the licensee on probation for six (6) months and at the expiration thereof may reinstate the licensee or may revoke his license if the licensee has failed to comply with this division or conditions established for continued operation.  
(Code 1965, §11.05(11))

**Sec. 9-394. Operation of business generally.**

(a) No licensee under this division shall carry on his business at or from any other place than that designated in the license, nor shall the business be carried on after such license has been revoked or has expired.

(b) No licensee shall make any purchase from any person or receive any article between 8:00 p.m. and 7:00 a.m.

(c) The contents of the premises of every licensee shall be arranged in an orderly manner with all similar things located together so as to facilitate inspection by the proper authorities. The premises of every licensee shall be subject to inspection by the proper authorities at any time.

(d) All paper that is stored shall be baled and all rags shall be baled or bagged, and both shall be kept within a building on the premises.

(e) No licensee shall store or keep any junk or salvage within a district zoned as residential under the zoning code.

(f) No vehicle, while carrying junk or salvage material, shall be parked in a residential district from 8:00 p.m. to 6:00 a.m.

(g) The area within ten (10) feet of the loading dock shall be permanently surfaced so as to facilitate cleaning.

(h) Any outside yard where junk or salvage material is kept shall be enclosed with a permanent fence no less than eight (8) feet high constructed of material which will, so far as practicable, conceal such yard from the view of persons using neighboring properties or public thoroughfares, and such fence shall be maintained in its vertical and horizontal planes.  
(Code 1965, §11.05(8)(a), (b), (d)--(i))

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

**Sec. 9-395. Register required.**

Every salvage dealer shall keep at his place of business a book or register in which he shall enter in writing a minute description of all persons and of the property or choices in action received on deposit, pledge or purchase and the time when they were received and shall mention any prominent or descriptive marks that may be on such property or choices in action together with the name and residence of the person by whom they were left, deposited and pledged. No entry therein shall be erased, obliterated or defaced during the period of the dealer's license.  
(Code 1965, §11.06(3))

**Sec. 9-396. Exhibition of register and goods.**

Every person licensed under this division shall, during the ordinary hours of business, when required by any City official or any police officer of the City, submit and exhibit to such officer the register book and any goods, personal property, or choices in action that may be left, deposited, pledged or purchased.  
(Code 1965, §11.06(4))

**Sec. 9-397. Lost or stolen articles.**

(a) Any licensee under this division who shall have or receive any goods, articles or things lost or stolen or alleged or supposed to have been lost or stolen shall report such receipt to the police department and exhibit the article on demand to any police officer.

(b) The Chief of Police may cause any article or thing of value which has been purchased by a salvage dealer to be held by the licensee or delivered to the Chief of Police for the purpose of being identified by the lawful owner for such reasonable length of time as the Chief of Police shall deem necessary for such identification.  
(Code 1965, §§11.05(9), 11.06(6))

LICENSES, PERMITS AND BUSINESS REGULATIONS

**Sec. 9-398. Acceptance of goods from minor, intoxicated person or person of unsound mind.**

No licensee under this division shall buy or accept anything from minors or any person intoxicated or of unsound mind without first obtaining the consent of the parents or lawful guardian of such person.

(Code 1965, §11.06(5))

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

**Sec. 9-399. Clearing of premises on closing of operation.**

When any licensee under this division ceases business operations he shall, within thirty (30) days, clear the licensed premises of all junk or salvage material. If the licensee fails to comply with this section, the City may cause the work to be done and the cost thereof assessed as a special charge against the property.

(Code 1965, §11.05(10))

**Secs. 9-400—9-415. Reserved.**

**DIVISION 3. SECONDHAND GOODS DEALERS**

**Sec. 9-416. State law adopted.**

(a) The provisions of W.S.A. §134.71, relating to pawnbrokers, secondhand article and jewelry dealers and secondhand article dealers mall or flea market, exclusive of the definition of article, provisions relating to the holding period, and provisions thereof relating to the penalty to be imposed or the punishment for violation of said statutes or fees to be imposed for licenses, are hereby adopted and made a part of this division by reference. A violation of any such provision shall be a violation of this division.

(b) Article means any item of value, excluding only motor vehicles, large appliances, furniture, books and clothing other than furs.

(Ord 38-92, §1, 4-15-92; Ord 148-09, §1, 10-13-09)

**Sec. 9-417. License required.**

(a) No person, firm or company shall operate as a pawnbroker, secondhand article dealer, secondhand jewelry dealer or secondhand article dealer mall or flea market within the City unless duly licensed to do so by the Common Council.

(1) A person who operates as a secondhand article dealer on premises or land owned by a person, firm or company with a secondhand dealer mall or flea market license does not need to obtain a secondhand article dealer's license.

(2) Subsection (a) shall not apply to secondhand article dealers and secondhand jewelry dealers if the dealer is licensed in another municipality within the State of Wisconsin, unless subsection (b) applies.

(b) No person, firm or company shall operate as a secondhand article dealer or secondhand jewelry dealer and have a principal place of business within the City unless duly licensed to do so by the Common Council.

(Ord 38-92, §2, 4-15-92; Ord 58-92, §1, 5-20-92; Ord 148-09, §1, 10-13-09)

**Sec. 9-418. Exempted secondhand article dealers.**

Secondhand article dealer does not include any retailer or merchant who receives and resells trade-in merchandise if sales of used property constitute less than one percent (1%) of gross sales.

(Ord 38-92, §3, 4-15-92; Ord 148-09, §1, 10-13-09)

**Sec. 9-419. Application for license; license fees.**

Persons, firms or businesses required to be licensed under this division shall make application for the license

## MISCELLANEOUS OFFENSES

unlawful for any minor to loiter in or upon the public streets, highways, roads, alleys, parks, public buildings, premises licensed for sale of alcoholic beverages under §9-51 et seq., of this Code, vacant lots, vacant buildings, playgrounds or school grounds in the City, either on foot or in or upon any conveyance being driven or parked thereon, between the hours of 10:00 p.m. and 5:00 a.m. of the following day, Sunday through Thursday, and between 11:00 p.m. and 5:00 a.m. Friday and Saturday, unless accompanied by his or her parent, guardian or adult person having legal custody or control.

(c) **Responsibility of parents.** It shall be unlawful for the parent, guardian or other adult person having legal custody or control of any minor to suffer or permit or by inefficient control to allow such minor to violate this section unless the minor is accompanied by his or her parent, guardian or other adult person having legal custody or control.

(d) **Penalty, minor.** Any minor who violates this section shall be penalized pursuant to section 1-18(b) of this Code. (Ord 35-92, §1, 3-18-92)

### **Sec. 10-37. Possession or purchase of cigarettes and tobacco products by persons under the age of eighteen.**

(a) The provisions W.S.A. §254.92 as amended regarding the possession or purchase of cigarettes and tobacco products by persons under the age of eighteen (18), exclusive of any penalty contained therein, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(b) The provisions of W.S.A. §134.66, regarding the sale or gift of cigarettes or tobacco products, exclusive of any monetary penalty contained therein, is hereby adopted by reference and made an offense punishable as a violation of this Code. (Ord 41-92, §1, 4-15-92; Ord 87-93, §1, 6-2-93, Ord 60-99, §1, 8-22-99, Ord 117-00, §1, 12-23-00)

### **Sec. 10-38. Defacement or damage of property by graffiti.**

(a) Graffiti is hereby specifically declared to be a public nuisance, as defined in §12-27, affecting peace and safety.

(b) No person shall write, spray, scratch or otherwise affix graffiti upon any property whether private or public without the consent of the owner or owners of said property. Any person who shall affix graffiti to any property without the consent of the owner shall be liable for the costs of removing or covering such graffiti in addition to any fines imposed for violating §12-31. The parents of any unemancipated minor child who affixes graffiti may be held liable for the cost of removing or

covering said graffiti in accordance with W.S.A. §895.035.

(c) Every owner or occupant of a structure or property defaced by graffiti shall notify the Police Department of the graffiti before removing or covering such graffiti.

(d) Every owner of a structure or property defaced by graffiti shall comply with the terms of a written notice served upon them by the Police Department to remove or cover such graffiti within seventy-two (72) hours of such notice.

(e) In the event any owner fails to comply with the above-mentioned notice, the Police Department shall have the graffiti covered or removed and all costs, fees and expenses will be assessed to such owners' real estate taxes. (Ord 104-92, §1, 9-16-92; Ord 124-96, §1, 12-18-96)

### **Sec. 10-39. Chemical propellants.**

The provisions of Wisconsin Statutes §941.26 regarding chemical propellants, exclusive of any penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code. (Ord 14-93, §1, 1-20-93; Ord 138-94, §1, 11-16-94)

### **Sec. 10-40. Loitering.**

(a) **Definitions.** As used in this section:

**Loitering** means remaining idle in essentially one (1) location and shall include the concept of spending time idly; to be dilatory; to linger aimlessly; to stay; to saunter; to delay; to stand around, and shall also include the colloquial expression, "hanging around".

**Roadway** means that portion of a highway, as defined in W.S.A. §340.01(22), between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel or parking.

(b) **Loitering in the roadway.** It shall be unlawful for any person to loiter in or upon any roadway.

(c) **Penalty.** Any person who violates this section shall be penalized pursuant to §1-16 of this Code. (Ord 91-93, §1, 6-16-93)

### **Sec. 10-41. Facsimile firearms.**

(a) In this section, "facsimile firearm" means any replica, toy, starter pistol or other object that bears a reasonable resemblance to or that reasonably can be perceived to be an actual firearm. "Facsimile firearm" does not include any actual firearm.

(b) No person may carry or display a facsimile firearm in a manner that could reasonably be expected to alarm,

intimidate, threaten or terrify another person.

(c) No person may violate subsection (b) while on or otherwise within five hundred (500) feet of any private or public school premises.

(d) This section does not apply to any law enforcement officer acting in his or her official duties.  
(Ord 98-94, §1, 7-20-94)

**Sec. 10-42. Truancy and habitual truancy.**

(a) *Definitions.* All terms herein, to the extent not specifically defined, shall have the same meanings as those terms used in context of the Wisconsin Statutes referred to below.

*Acceptable excuse* means permission of the parent/guardian/legal custodian of a pupil, within limits of policies on truancy established by the school in which the pupil is enrolled. Except in emergencies or unforeseeable circumstances, such permission is expected to be communicated in writing from the parent/guardian/legal custodian to the school, prior to the absence. In emergencies or unforeseeable circumstances, such communication is expected to be as soon as practicable following the absence.

*Truant* means a pupil who is absent from school without an acceptable excuse under Wisconsin Statutes §118.15 and §118.16(4) for part or all of any day on which school is held during a school semester.

*Habitual truant* means a pupil who is absent from school without an acceptable excuse under Wisconsin Statutes §118.15 and §118.16(4) for part or all of five (5) or more days on which school is held during the school semester.

(b) *Prohibited acts.* It shall be a violation of this section for a child to be a truant or habitual truant. Any child violating this section shall be subject to one (1) or more of the penalties provided in subsections (c) and (d) below respectively.

(c) *Truancy penalties.* For a child under the age of eighteen (18) who is found to be truant, all dispositions listed in W.S.A. §118.163(1m)(a)-(c), shall be available to the court.

(d) *Habitual truancy penalties.* For a child under the age of eighteen (18) who is found to be a habitual truant, all dispositions listed in W.S.A. §118.163(2)(a)-(L), shall be available to the court.  
(Ord 1-11, §1, 1-11-11)

**Sec. 10-43. Adoption of state law regarding contributing to truancy.**

The provisions of W.S.A. §948.45, exclusive of any provisions relating to the penalty to be imposed or the punishment for the violations thereof, are hereby adopted and made part of this section by reference and made an offense punishable as a violation of this Code.  
(Ord 66-97, §1, 7-17-97)

**Sec. 10-44. Adoption of state law regarding laser pointers.**

The provisions of W.S.A. §941.299, exclusive of any provisions relating to the penalty to be imposed or the punishment for the violations thereof, are hereby adopted and made part of this section by reference and made an offense punishable as a violation of this Code.  
(Ord 115-00, §1, 11-18-00)

**Sec. 10-45. Urinating or defecating in public.**

No person shall urinate or defecate outside of any designated sanitary facilities, upon any sidewalk, street, alley, public parking lot or ramp, park, playground, cemetery, or other public area or upon any private property in open view of the public or in the halls, rooms without restroom facilities, stairways or elevators of public or commercial buildings.  
(Ord 139-01, §1, 8-20-01)

**Sec. 10-46. Reserved.**

(Ord 123-03, §1, 7-8-03)

\*Editor's Note: This section, §10-46, smoking on City property, was repealed by the Smoke Free Indoor Air Ordinance, Ord 35-05, §1, effective 7-1-05.

**Sec. 10-47. Animals at special events prohibited.**

(a) Animals are prohibited on public property located within the Downtown District (Richmond Street to Drew Street/south side of Lawrence Street to north side of Washington Street) on the following special event days: Flag Day Parade, License to Cruise, Oktoberfest, Christmas Parade, and any day that a planned/permitted special event would close one or more blocks within the Downtown District to normal use or traffic, except by written permission from the event permit holder for special activities in accordance with the event.

**Chapter 12**

**Nuisances**

**ARTICLE I. IN GENERAL**

Billposting; definitions .....12-1  
Billposting prohibited .....12-2  
Reserved ..... 12-3 – 12-25

**ARTICLE II. PUBLIC NUISANCES GENERALLY**

Penalty for violation of article .....12-26  
Public nuisance defined .....12-27  
Public nuisances affecting health .....12-28  
Public nuisances offending morals and decency .....12-29  
Public nuisances affecting peace and safety .....12-30  
Public nuisances prohibited .....12-31  
Abatement – generally .....12-32  
    Responsibility for enforcement; inspections ..... 12-32(a)  
    Summary abatement ..... 12-32(b)  
        Order of abatement ..... 12-32(b)(1)  
        Abatement by City ..... 12-32(b)(2)  
    Nonsummary abatement by City ..... 12-32(c)  
        Order to abate nuisance ..... 12-32(c)(1)  
        Abatement by City ..... 12-32(c)(2)  
        Remedy from order ..... 12-32(c)(3)  
    Authority to assess costs ..... 12-32(d)  
    Abatement in accordance with state law ..... 12-32(e)  
Same – collection of costs .....12-33  
Open cisterns, basements and other dangerous excavations .....12-34  
Abandoned refrigerators and other airtight containers .....12-35  
Outside storage of firewood .....12-36  
Composting .....12-37  
Reserved ..... 12-38 – 12-55

**ARTICLE III. WEEDS AND WILD GROWTH**

Definition .....12-56  
Destruction of noxious weeds required .....12-57  
Weed commissioner; destruction of weeds by City .....12-58  
Landscape maintenance .....12-59  
    Purpose ..... 12-59(a)  
    Managed natural landscaping ..... 12-59(b)  
    Yard neglect ..... 12-59(c)  
    Enforcement ..... 12-59(d)  
Reserved ..... 12-60 – 12-75

**ARTICLE IV. NOISE**

Definitions .....12-76  
Applicability of article; administration and enforcement .....12-77  
Penalty for violation of article; abatement of noise disturbance .....12-78  
Noise measurement methods .....12-79  
Disturbing noise generally .....12-80  
Prohibited acts .....12-81  
Light motor vehicle noise .....12-82  
Variances .....12-83  
    Special variance permits ..... 12-83(a)  
        General ..... 12-83(a)(1)  
        Special community events ..... 12-83(a)(2)

APPLETON MUNICIPAL CODE

Procedures..... 12-83(a)(3)  
 Issuance..... 12-83(a)(4)  
 Extension or modification ..... 12-83(a)(5)  
 Conditional variances ..... 12-83(b)  
     Application..... 12-83(b)(2)  
     Permit..... 12-83(b)(3)  
     Conditions ..... 12-83(b)(4)  
     Extension and modification..... 12-83(b)(5)  
     Appeals..... 12-83(b)(6)  
 Sounding locomotive whistle..... 12-84  
 Adoption of state law regarding sound-producing devices; impoundment; seizure and forfeiture ..... 12-85  
 Commercial and industrial construction ..... 12-86  
 Radio or other electric sound amplification device – prohibited ..... 12-87  
 Reserved ..... 12-88 – 12-100

**ARTICLE V. ABANDONED PROPERTY**

Disposition generally ..... 12-101  
 Abandoned vehicles..... 12-102  
     Abandonment prohibited ..... 12-102(a)  
     Impoundment..... 12-102(b)  
     Notification of owner ..... 12-102(c)  
     Disposal of vehicle ..... 12-102(d)  
     Responsibility for costs of impoundment and disposal..... 12-102(e)  
     Notice of sale or disposition ..... 12-102(f)  
 Reserved ..... 12-103 – 12-120

**ARTICLE VI. ALARM SYSTEMS**

Definitions ..... 12-121  
 Purpose of article ..... 12-122  
 Alarm permits ..... 12-123  
 Duties of the alarm business ..... 12-124  
 Exceptions to article ..... 12-125  
 Prohibited devices ..... 12-126  
 False alarm fee..... 12-127  
 Violations and penalties..... 12-128

**ARTICLE VII. CHRONIC NUISANCE PREMISES**

**DIVISION 1. GENERALLY**

Findings..... 12-140  
 Definitions..... 12-141  
 Reserved ..... 12-142 – 12-144

**DIVISION 2. PROCEDURE**

Procedure..... 12-145  
 Penalties and remedies ..... 12-146  
     Cost recovery ..... 12-146(a)  
     Suspension of cost recovery ..... 12-146(b)  
     Forfeiture..... 12-146(c)  
 Appeal ..... 12-147  
 Injunction ..... 12-148  
 Abatement in accordance with state law..... 12-149  
 When nuisance is deemed abated ..... 12-150  
 Severability..... 12-151

**Cross reference(s)**--Board of health, §2-76; health officer, §2-261; buildings and building regulations, ch. 4; unsafe buildings, §4-181; housing standards, §4-231; rodent control, §7-66; fire hazards, §6-6; littering in streets, alleys, highways, public parks or other public property, §16-8; declaration of nuisances regarding trees and other vegetation, §21-68.

**State law reference(s)**--Nuisances, W.S.A. §§30.294, 30.03, 31.25, 66.0415, 23.235, 94.38, 125.14, 144.449, 146.125, 146.14, 163.71, 823.01--823.07, 823.10, 844.20 et seq.

**ARTICLE I. IN GENERAL**

**Sec. 12-1. Billposting; definitions.**

(a) Billposting means affixing, depositing, distributing, posting, placing, painting or tacking of any handbill.

(b) Handbill means any bill, card, sign, circular, flyer, leaflet, pamphlet, paper booklet, poster or any printed or written material which does the following:

- (1) Advertises any business, merchandise, product, commodity or thing;
- (2) Directs attention to any business, mercantile or commercial establishment or other activity, for the purpose of either directly or indirectly promoting sales; or
- (3) Directs attention to or advertises any meeting, theatrical performance, exhibition, entertainment or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

(c) Person means any person, firm, partnership, association, corporation, company or organization of any kind.  
(Code 1965, §11.13; Ord 87-97, §1, 10-15-97; Ord 142-09; §1, 8-25-09)

**Sec. 12-2. Billposting prohibited.**

(a) No person shall affix any handbill upon any vehicle on public or private property, unless the owner(s) of said property consents.

(b) No person shall post any handbill on any pole including utility poles, telephone poles, lampposts or poles used for an official sign, on the sidewalk, public or private, on any store, business, barn, shop or other building, either private, municipal or public, or on any fence, bridge, wall or other building or structure except the following:

- (1) A dwelling under the following conditions:
  - a. Handbills are securely affixed.
  - b. Handbills are distributed only during daylight hours.
  - c. No person shall distribute, deposit or place a handbill upon any dwelling which is temporarily or continuously uninhabited or vacant.

d. No person shall distribute, deposit or place upon any dwelling a handbill without the name, address and phone number of the person causing the handbill to be distributed, deposited or placed.

e. No person shall distribute, deposit or place upon any dwelling a handbill that contains obscene or harmful material as defined by WSA §948.11.

(2) A billboard.

(c) This section shall not apply to notices, warnings or other communications by, or on behalf of, the City.  
(Ord 143-09; §1, 8-25-09)

**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; licenses, permits and business regulations, ch. 9

**Secs. 12-3 – 12-25. Reserved.**

**ARTICLE II. PUBLIC NUISANCES  
GENERALLY\***

**Sec. 12-26. Penalty for violation of article.**

Any person who shall violate any provision of this article shall be subject to a penalty as provided in §1-16. (Code 1965, §9.05)

**Sec. 12-27. Public nuisance defined.**

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- (2) In any way render the public insecure in life or in the use of property.
- (3) Greatly offend the public morals or decency.
- (4) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water, or other public way or the use of public property.

(Code 1965, §9.02(1))

**Cross reference(s)** – Sanitary facilities required for housing, §4-238. Definitions and rules of construction generally, §1-2.

**State law reference** – Nuisances, W.S.A. §823.01, et seq.

**Sec. 12-28. Public nuisances affecting health.**

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the provisions of §12-27.

- (1) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (2) Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.
- (3) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- (4) Any pit, hole, excavation, gully, ditch or depression of any nature whatsoever wherein water is

accumulated and retained for more than seventy-two (72) hours, except that stormwater conveyance systems or water quality devices installed or maintained by the City; or permitted stormwater control practices installed and maintained on public or private property, are not included.

- (5) Privy vaults and garbage cans which are not flytight.
- (6) All noxious weeds and other rank growth of vegetation.
- (7) All domestic animals running at large.
- (8) The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (9) Any use of property substances or things within the city emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the city.
- (10) Any use of property which causes any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the city.

(Code 1965, §9.02(2); Ord 118-08, §1, 7-8-08)

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

**Sec. 12-29. Public nuisances offending morals and decency.**

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the provisions of §12-27.

- (1) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (2) All gambling devices and slot machines.
- (3) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the City.

- (4) Any place or premises within the city where City ordinances or State laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (5) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State or ordinances of the City.

**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.  
**State law reference(s)** – Similar provisions W.S.A. §823.09 et seq.

**Sec. 12-30. Public nuisances affecting peace and safety.**

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of §12-27.

- (1) All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public so situated or constructed as to endanger the public safety.
- (2) All buildings erected, repaired or altered within the fire limits of the city in violation of the provisions of the ordinances of the City relating to materials and manner of construction of buildings and structures within the district.
- (3) Any unauthorized sign, signal, marking or device placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal.
- (4) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (5) All limbs of trees, hedges, bushes or plantings which project over and less than fourteen (14) feet above any public street, or over and less than ten (10) feet above any public sidewalk, or other public place.
- (6) All trees which are a menace to public safety or are the cause of substantial annoyance to the general

public.

- (7) All use or display of fireworks except as provided by the laws of the State and ordinances of the City.
- (8) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (9) All wires over streets, alleys or public grounds which are strung less than fifteen (15) feet above the surface thereof.
- (10) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises greatly annoys or disturbs a neighborhood or any considerable number of persons within the city.
- (11) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under streets, alleys, sidewalks or crosswalks, except as permitted by the ordinances of the City, or obstructions which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or which do not conform to the permit.
- (12) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (13) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk, or use of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- (14) Repeated or continuous violations of the ordinances of the City or laws of the State relating to the storage of flammable liquids.
- (15) All snow and ice not removed or sprinkled with a material which accelerates melting or prevents slipping as provided in §16-10.
- (16) All junked, disassembled, inoperable or wrecked motor vehicles, or parts thereof, which have been allowed to remain outside of any building upon public or private property for a period in excess of three (3) days, unless in connection with an automotive sales or repair business located in a properly zoned area.
- (17) Any construction debris or materials, unsightly

debris, trash, wood, brick, washing machines, refrigerators or junk such as may tend to depreciate property values or be detrimental to the appearance, neatness and cleanliness of the neighborhood, provided that nothing in this subsection shall prohibit reasonable storage of construction materials during the construction of any building or structure.

(18) All motor vehicles allowed to remain outside of a building on private or public land which are not currently licensed or operable.

(Code 1965, §9.02(4), Ord 65-00, §1, 8-19-00; Ord 18-06, §1, 2-21-06; Ord 1-08, §1, 1-8-08)

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

**Sec. 12-31. Public nuisances prohibited.**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the City.

(Code 1965, §9.01)

**State law reference(s)** – Public nuisances, W.S.A. §146.14, §823.01, et seq.

**Sec. 12-32. Abatement – generally.**

(a) **Responsibility for enforcement; inspections.** It shall be the duty of each department head to enforce those provisions of this chapter that come within the jurisdiction of their respective offices, and each department head shall make or cause to be made periodic inspections and inspections upon complaint to ensure such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.

(b) **Summary abatement.**

(1) **Order of abatement.** If the inspecting officer determines that a public nuisance exists within the city and that there is imminent danger to the public health, safety, peace, morals or decency, he may, without notice or hearing, issue an order reciting the existence of a public nuisance constituting imminent danger to the public and requiring immediate action be taken as he deems necessary to abate the nuisance. Notwithstanding any other provisions of this article, the order shall be effective immediately. Any person to whom such order is directed shall comply with the order immediately.

(2) **Abatement by City.** Whenever the owner or occupant shall refuse or neglect to remove or abate the condition described in the order, the

inspecting officer shall, in his discretion, enter upon the premises and cause the nuisance to be removed or abated and the City shall recover the expenses incurred thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance.

(c) **Nonsummary abatement by City.**

(1) **Order to abate nuisance.** If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety, peace, morals or decency, he shall issue an order reciting the existence of a public nuisance and requiring the owner or occupant of the premises to remove or abate the condition described in the order within the time period specified therein. The order shall be served personally on the owner of the building, as well as the occupant if different from the owner and applicable to the described nuisance, or, at the option of the inspecting officer, the notice may be mailed to the last known address of the person, to be served by certified mail with return receipt. If the owner or the occupant cannot be served, the order may be served by posting it on the main entrance of the premises and by publishing as a Class 3 notice under W.S.A. Chapter 985. The time limit specified in the order runs from the date of service or publication.

(2) **Abatement by City.** If the owner or occupant fails or refuses to comply within the time period prescribed, the inspecting officer shall enter upon the premises and cause the nuisance to be removed or abated and the City shall recover the expenses incurred thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance.

(3) **Remedy from order.** Any person affected by such order shall, within thirty (30) days of service or publication of the order, apply to the Circuit Court for an order restraining the City and the inspecting officer from entering on the premises and abating or removing the nuisance, or be forever barred. The court shall determine the reasonableness of the order for abatement of the nuisance.

(d) **Authority to assess costs.** The cost of the abatement or removal of a nuisance under this section shall be collected from the owner, occupant or person causing, permitting or maintaining the nuisance and, if notice to

abate the nuisance, if applicable, has been given to the owner, such cost shall be assessed against the real estate as a special charge.

(e) **Abatement in accordance with state law.** Nothing in this article shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State.  
(Code 1965, §9.03; Ord 2-08, §1, 1-8-08)

**Sec. 12-33. Same – collection of costs.**

In addition to any other penalty imposed by this article for the erection, contrivance, creation, continuous or maintenance of a public nuisance, the cost of abatement of a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance and, if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

**Sec. 12-34. Open cisterns, basements and other dangerous excavations.**

No person shall have or permit on any premises owned or occupied by him any open cistern, cesspool, well, unused basement, excavation or other dangerous opening. All such places shall be filled, securely covered or fenced in such a manner as to prevent injury to any person, and any cover shall be of such a design, size and weight that the cover cannot be removed by small children.  
(Code 1965, §8.01(6))

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

**Sec. 12-35. Abandoned refrigerators and other airtight containers.**

No person shall leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his control, in a place accessible to children, any abandoned, unattended or discharged icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may be not released from the inside, without first removing the door or lid, snap lock or other locking device from the icebox, refrigerator or container.  
(Code 1965, §8.01(7))

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

**Sec. 12-36. Outside storage of firewood.**

No person shall store firewood in the front yard on residentially zoned property, except that firewood may be

temporarily stored in the front yard for a period of fourteen (14) days from the date of its delivery. Firewood shall be neatly stacked and may not be stacked closer than one (1) foot to any lot line and not higher than five (5) feet from grade, except adjacent to a fence, where firewood can be stacked against the fence, where firewood can be stacked against the fence as high as the fence. All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises. Not more than ten percent (10%) of the side yards and rear yard may be used for storage of firewood at any one time. The definitions of the City Zoning Code apply to this section, except that the word “fence” shall not include a hedge or other vegetation.  
(Code 1965, §22.12)

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

**Sec. 12-37. Composting.**

(a) **Purpose and intent.** The purpose of this section is to promote the recycling of yard waste and food scraps through composting, and to establish minimum standards for proper compost maintenance.

(b) **Exemptions. Composting done by the following parcels is exempt from this section:**

- (1) Parcels that are zoned Agriculture or have obtained a Special Use as an Urban Farm, in accordance with Sec. 23-66(h)-(m) of the Zoning Ordinance.
- (2) Parcels owned by the City of Appleton or are being used by the City of Appleton for municipal composting purposes.

(c) **Definitions.**

- (1) **Composting** shall mean a controlled biological reduction of organic wastes to humus.
- (2) **Compost barrel or barrel** shall mean a barrel made of metal or plastic, fifty-five (55) gallons or larger, with a minimum of six (6) rows to a maximum of nine (9) rows of one-half (½) inch holes drilled into the barrel for ventilation, with a block or stone pedestal base for water release.
- (3) **Compost bin or bin** shall mean a bin that is enclosed and free standing, constructed of rot-resistant wood such as cedar, arsenic free treated wood, plastic lumber, metal post and woven wire or hardware cloth. Bins shall be

APPLETON MUNICIPAL CODE

fastened to the ground to form stability. A bin shall be no at minimum three (3) feet tall and at maximum five (5) feet tall, with a minimum width of three (3) feet and a maximum width of five (5) feet. Yard waste shall mean leaves, grass clippings, garden debris and brush.

- (4) **Compost pit or pit** shall mean a pit in the ground that is a minimum of two (2) feet deep and a maximum of four (4) feet deep and covered at all times with a minimum of one (1) inch to a maximum of three (3) inches of soil.
- (5) **Compost trench or trench** shall mean a trench in the ground that is at minimum eighteen (18) inches deep and covered at all times with a minimum of one (1) inch to a maximum of three (3) inches of soil.
- (6) **Food scraps** shall mean raw fruits and vegetables and other food remains, such as, but not limited to, apples (peels and cores), cabbage, carrots, celery, coffee (grounds and filters), clean egg shells, grapefruit, lettuce, onion peels, orange peels, pears, pineapple, melon rinds, potatoes, pumpkin shells, squash, tea leaves, tomatoes, turnip leaves, etc.
- (7) **Yard waste** shall mean leaves, grass clippings, garden vegetation and brush.

(d) **Maintenance.** All compost bins, pits, trenches, and barrels shall be maintained using approved composting structures and procedures to comply with the following requirements:

- (1) Yard waste composting: Yard waste shall be composted in bins. Yard waste must be turned every one (1) to two (2) weeks. Yard waste bins may also contain food scrap. Any yard waste bin that is also used to compost food scraps must have a lid with a latching assembly system.
- (2) Food scrap composting: Food scraps may be composted in bins, pits, trenches or barrels. Food scraps must be turned or tilled with soil every two (2) to three (3). Barrels and bins must have a lid with a latching assembly system.
- (3) Should there be signs or evidence of rodents in or near a compost barrel, bin, pit, or trench, the Health Department must be

notified and shall be authorized proceed under Sections 7-67 and 7-68.

- (4) Should there be any unpleasant odor from the compost bin, barrel, pit or trench, steps must be taken immediately to abate the odor.

(e) **Location.**

- (1) Compost bins, pits, trenches, and barrels shall be located in the rear yard only.
- (2) Compost bins, pits, trenches and barrels shall be at least three (3) feet from the side and rear property line.
- (3) Subsections (e)(1) and (e)(2) shall not apply to a compost bin, pits, trenches, and barrels located in a side yard substantially screened from view from the street and from the ground level of the adjacent residences by shrubs and other plantings or by fencing, provided that such plantings or fencing shall at all times exceed the height of the compost bin or pile by no less than one (1) foot.

(f) **Ingredients.**

- (1) No compost bins, pits, trenches, and barrels shall contain any of the following:
  - a. Lakeweeds;
  - b. Cooked food scraps, except coffee grounds and tea leaves;
  - c. Fish, meat or other animal products;
  - d. Dairy products;
  - e. Large items that will impede the composting process.
- (2) Permitted ingredients in a compost bins, pits, trenches, and barrels shall include:
  - a. Yard waste;
  - b. Food Scraps;
  - c. Commercial compost additives.

(g) **Owner Responsibility.** Every owner or operator shall be responsible for maintaining all property under his or her control in accordance with the requirements of this section. Compost material generated shall be for private use

only; to be used on the same parcel it was generated. Compost may not be sold.

(h) **Penalty.** Any person violating this section shall be subject to a forfeiture of not less than ten dollars (\$10.00) or more than two hundred dollars (\$200.00). Each day such violation continues shall be considered a separate offense.

(Ord 66-15, §1, 9-8-15)

**Secs. 12-38 – 12-55. Reserved.**

### **ARTICLE III. WEEDS AND WILD GROWTH\***

#### **Sec. 12-56. Definition.**

For purposes of this article, noxious weeds shall mean the weeds defined in W.S.A. §66.0407, which is hereby adopted and made a part of this article, and shall also include common ragweed (*Ambrosia artemisiifolia*), giant ragweed (*Ambrosia trifida*) and burdock (*Actrium* spp.). (Code 1965, §22.06(2))

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

#### **Sec. 12-57. Destruction of noxious weeds required.**

Every person shall destroy all noxious weeds on every parcel of land which he owns, occupies or controls. (Code 1965, §22.06(1))

#### **Sec. 12-58. Weed Commissioner; destruction of weeds by City.**

(a) The Weed Commissioner, who shall be the Inspections Supervisor, shall have the powers and duties enumerated in this article and in W.S.A. §66.0407, except that he shall receive no compensation for his services other than his regular salary.

(b) An administrative fee shall be charged for the inspection of non-compliant properties. All fees shall be on file with the Department of Public Works.

(c) The Weed Commissioner shall destroy or cause to be destroyed noxious weeds, and is further empowered to enter upon public and private lands and to cut or remove the accumulation or growth of weeds, grass, brush or other rank or offensive vegetation which has grown to a height greater than the following heights:

- (1) On developed lots, regardless of location in the city, eight (8) inches;
- (2) On undeveloped lots, regardless of location in the city, twelve (12) inches.

(d) Developed lot shall be defined as one with a finished building or building under construction.

(e) The administrative fee for multiple adjacent properties or a new subdivision by phase per event shall be no more than five (5) times the fee for a single lot.

(f) Property in the city, but not yet served by City sewer and water or permitted utilities, shall be exempt from the provisions of this section, except for noxious weeds.

(g) Noxious weeds shall be eliminated under this notice and charge provisions of W.S.A. §66.0517. All other weed elimination or vegetation control shall be charged as a special charge for current services rendered under W.S.A. §66.0627, with or without notice to the property owner. (Code 1965, §22.06(3) – (5); Ord 15-92, §1, 4-1-92; Ord 174-93, §1, 10-19-93; Ord 30-07, §1, 2-27-07; Ord 8-14-, §1, 3-11-14)

\***Cross reference(s)** – Sanitary facilities required for housing, §4-238.

**State law reference(s)** – Nuisances, weeds, W.S.A. §23.235 through §66.0517.

**Sec. 12-59. Landscape maintenance.**

(a) **Purpose.** The use of wildflowers and other native plants in a managed landscape design can be economical, low-maintenance and effective in soil and water conservation. However, it is not the intent of this section to allow vegetated areas to be completely unmanaged or overgrown.

Areas that present either a direct health hazard or provide a demonstrated breeding ground for fauna known to create a safety or health hazard will not be permitted. Certain noxious weeds defined in this section are recognized indicators of neglect. The City recognizes the desirability of permitting natural vegetation within the city limits while maintaining public health and safety at the same time.

(b) **Managed natural landscaping.**

- (1) Native and naturalized plants including, but not necessarily limited to, ferns, wildflowers, grasses, shrubs and trees may be grown in a managed landscape design provided said plants were not obtained, or are not growing, in violation of any local, state or federal laws.
- (2) Nuisance weeds and noxious weeds are defined by W.S.A. §23.235 and §66.0407, respectively, as amended, and also include those weeds set forth in §12-56. Such weeds are prohibited in all cases and shall be subject to destruction under §12-59 and §12-58.
- (3) Natural landscape areas shall be set back a minimum of seven (7) feet from all property lines and driveways unless the property is abutted by a roadway, fence or similar barrier separating it from adjoining residential properties, then the natural landscaping may be planted up to the property line (inside the sidewalk).
- (4) Natural landscape areas shall be subject to §6-6 governing fire hazards. Those areas located

within residential districts and containing dense plantings of tall grasses (in excess of 8”) or similar light weight fuels (as determined by the Fire Department) shall be limited in area to two hundred (200) square feet, separated from other like areas according to the setback requirements in sec. (3) and set back a minimum of seven (7) feet from all structures.

- (5) This section shall not apply to properties owned by governmental entities or where federal, state or local regulations provide otherwise.

(c) **Yard neglect.**

- (1) Any front, side or rear yard area of a residence, business, institutional or industrial use, including any area between an installed sidewalk and the street, shall be maintained with a lawn, shrubbery, plantings or other surface treatment consistent with this section.
- (2) Rank or unmanaged growth of vegetation identified in state or local codes is not permitted and is declared to be a public nuisance.
- (3) Yards, including any area between the installed sidewalk and the curb, with a common stand of turf grass is higher than eight (8) inches is declared to be in a state of neglect and a public nuisance.

(Ord 73-14, §1, 10-12-14)

(d) **Enforcement.** Failure to correct a violation of this section may result in weed elimination as defined in §12-58 of this ordinance and penalties as provided in §1-16. (Ord 11-98, §1, 2-18-98, Ord 13-02, §1, 3-11-02)

**Secs. 12-60 – 12-75. Reserved.**

**ARTICLE IV. NOISE\***

**Sec. 12-76. Definitions.**

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

**ANSI** means American National Standards Institute or its successor bodies.

**A-weighted sound level** means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.

**Ambient noise** means the all encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far.

**Background noise level** means the sound from all sources, with a single source in question removed.

**Commercial area** means any area of the city designated on the Official Zoning Map C-O, C-1, C-2 or CBD.

**Construction** means any site preparation, assembly, erection, substantial repair, alteration or similar action, for or of public or private rights-of-way, structures, utilities or similar property.

**Day** means the hours between 7:00 a.m. and 10:00 p.m. central standard or daylight savings time when in effect.

**Decibel or dB** means a unit for measuring the volume of a sound, equal to twenty (20) times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micronewtons per square meter.

**Demolition** means any dismantling, intentional destruction, or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

**Emergency** means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

**Emergency work** means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

**Fluctuating sound** means a sound whose sound pressure level varies significantly but does not equal the ambient

environmental level more than once during the period of observation.

**Frequency** means the reciprocal of the primitive period of a function periodic in time. The unit is the cycle per unit time and must be specified; typically this unit will be hertz (hz), i.e., cycles per second.

**Gross vehicle weight rating or GVWR** means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.

**Industrial area** means any area of the city designated on the Official Zoning Map M-1 or M-2.

**Light motor vehicle** means any automobile, van, motorcycle, motor-driven cycle, motor scooter or light truck with a gross vehicular weight of less than eight thousand (8,000) pounds.

**Motor vehicle** means a vehicle which is self-propelled, including, but not limited to, cars, trucks, motorcycles, motorbuses, motorhomes, snowmobiles, truck trailers, and motor bicycles.

**Muffler or sound dissipative device** means a device for abating the sound of escaping gases of an internal combustion engine.

**Night** means the hours between 10:00 p.m. and 7:00 a.m., standard time or daylight savings time when in effect.

**Noise** means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

**Noise disturbance** means any sound which:

- (1) Endangers or injures the safety or health of humans or animals;
- (2) Annoys or disturbs a reasonable person of normal sensitivities; or
- (3) Endangers or injures personal or real property.

**Public right-of-way** means any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a government entity.

**Public property** means any real property or structures

thereon which are owned or controlled by a governmental entity, including, but not limited to, parks, streets and alleys.

**Real property boundary** means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.

**Residential area** means any area of the city designated on the Official Zoning Map AG, R-1A, R-1B, R-1C, R-2, R-3, P-I and NC.

**Sound** means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristics of sound, including duration, intensity and frequency.

**Sound level** means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4 – 1971 or the latest approved revision thereof). If the frequency weighting employed is not indicated, the A-weighting shall apply.

**Sound level meter** means an instrument which includes a microphone, amplifier, output meter, and weighting networks used to measure sound pressure levels. (Code 1965, §22.09(2); Ord 69-07, §1, 3-27-07)

**Cross reference(s)** – Definitions and rules of construction generally, §1-2. Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**State law reference(s)** – Boat noises, W.S.A. §30.62; noises generally, automobiles, W.S.A. §347.38; snowmobiles, W.S.A. §350.10

**Sec. 12-77. Applicability of article; administration and enforcement.**

Noise is a serious hazard to the public health, welfare, safety and quality of life. A substantial body of science and technology exists by which excessive sound may be substantially abated. The people have a right to an environment free from excessive sound that may jeopardize their health, welfare, or safety, or degrade the quality of life. This article shall apply to the control of noise originating within the corporate limits of the city. It is the policy of the city to prevent noise that may jeopardize the health and welfare or safety of its citizens or degrade the quality of life. It shall be the duty of the Health Department or the Police Department to administer and enforce the provisions of this article.

**Sec. 12-78. Penalty for violation of article; abatement of noise disturbance.**

Any person who shall violate any provisions of this article shall be subject to penalty as provided in §1-16. In addition to forfeiture, this article may be enforced by injunction, nuisance abatement or other appropriate legal or equitable action. Noise as defined in this article, together with specific prohibited acts of noise disturbance, are hereby deemed and declared to be a public nuisance subject to nuisance abatement proceedings. (Code 1965, §22.09(9))

**Sec. 12-79. Noise measurement methods.**

(a) Measurement shall be made at or beyond the property line of the property on which such noise is generated or at or within the property line of the property on which such noise is perceived, as appropriate. Measurement shall be done approximately four (4) feet above the ground and at least three (3) feet from large reflecting surfaces such as building walls.

(b) Measurement of sound shall be made either with a sound level meter that meets or exceeds the ANSI requirements of the American Standard Specification for Sound Level Meters, Type I or Type II (ANSI S1.4 - 1971) or with an Octave Band Analyzer that meets or exceeds the requirements of ANSI S1.6-19600 or any subsequent nationally adopted standards superseding the above standards. In both cases, the instruments should be maintained in calibration and good working order.

(c) When a sound level meter is used, it shall be set to the A-weighting scale and in the FAST response mode. A windscreen shall be mounted on the microphone and the noise limitations shall be the A-scale levels set forth in **Tables I and II**. An octave band analyzer may be employed when there is a concentration of sound energy within a limited number of bands, but its use shall not be restricted to such situations. When an octave band analyzer is used, a standard octave band analysis shall be conducted that spans the frequency range set forth in **Tables I and II**.

**Sec. 12-80. Disturbing noise generally.**

No person shall make or cause to be made any loud, disturbing, fluctuating or unnecessary sounds or noises such as may tend to annoy or disturb a reasonable person. (Code 1965, §8.02(3); Ord 139-94, §1, 11-16-94)

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

**Sec. 12-81. Prohibited acts.**

(a) No person shall operate or cause to be operated on private or public property any source of sound in such a

APPLETON CODE

manner as to create a sound level which exceeds the limits set for the zone categories in Table I, provided however, that when sound is emitted from an industrial zone into a residential zone or commercial zone, or from a commercial zone into a residential zone, the limits set forth in Table II shall apply.

(b) No person shall operate, play, or permit the operation or playing of any radio, television, phonograph, musical instrument, sound amplifier or similar device in such a manner as to create a noise disturbance.

(c) No person shall own, possess or harbor any animal or bird which frequently or for continued duration makes sound which creates a noise disturbance.

(d) No person shall operate or permit the operation of any mechanical power saw, drill, sander, grinder, lawn or garden tool, lawnmower, snow removal equipment or any similar device, necessary for the maintenance of property, in a manner which creates a noise disturbance. Such devices that are kept in good repair and, when new, would not comply with the standards set forth in this article, shall be exempt provided they are reasonably used for property maintenance. No such equipment, except snow removal equipment, shall be operated at night.

(e) No person shall sound or permit the outdoor sounding of any fire alarm, burglar alarm, civil defense alarm, siren, horn, whistle or similar emergency signaling device, except for emergency purposes or for testing. Any testing shall be performed during the day.

(f) No person shall operate any motor vehicle unless such motor vehicle is equipped with an adequate muffler in constant operation and property maintained to prevent excessive or unusual noise. The provisions of W.S.A. §347.39 are hereby adopted by reference and made a part of this section.

(g) No operator shall accelerate a motor vehicle so as to emit an unnecessary noise as a result of the friction caused between the tire and the surface on which the vehicle travels or to cause the tires to throw stones or gravel when in the process of accelerating.  
(Code 1965, §8.03(3)(a); §22.09(5))

(h) It shall be unlawful for any vehicle equipped with a compression braking device (jake brakes) to use this device to contain the engine's compression, thus rapidly slowing the engine's revolutions per minute and the vehicle's speed, except in cases of extreme emergency.

(i) **Exemptions.** The following activities shall be exempt from the regulations of this section:

- (1) The daytime criteria, as set forth in Tables I and II, shall not apply to construction sites, demolition sites, public utilities, and public works projects and operations during daytime hours Monday through Saturday, inclusive; however, the noise production shall be minimized through proper equipment operations and maintenance. Stationary equipment on construction projects lasting more than ten (10) days within residential districts shall be shielded or located to prevent unnecessary noise.
- (2) Emergency short term operations which are necessary to protect the public health, safety and welfare of the citizens, including emergency utility and public works operations.
- (3) Essential operations and noises required by law relating to the public health, safety and welfare, including, but not limited to, law enforcement, firefighting and rescue and sanitation activities.
- (4) When the background noise level is above a noise limitation, a source may add no more than 2 dB to the background level.

(Code 1965, §22.09(3), (7); Ord 171-01, §1, 10-8-01)

**Cross reference(s)** – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; traffic and vehicles, ch. 19

**TABLE I**  
**Maximum Permissible Sound Pressure**  
(Levels in Decibels re .0002 Microbars)

7:00 A.M. to 10:00 P.M.

Octave Band Center Frequency	Residential	Commercial	Industrial
	(Hz)		
31.5	70	80	86
63	69	79	85
125	64	73	80
250	58	65	75
500	52	59	69
1000	47	53	63
2000	42	47	58
4000	38	42	54
8000	35	40	51
A-scale levels	57 dB (A)	63 dB (A)	72 dB (A)

APPLETON MUNICIPAL CODE

10:00 P.M. to 7:00 A.M.

8000 40 39 32

A-scale levels 61 dB(A) 60 dB (A) 55 dB (A)

Octave Band Center Frequency (Hz)	Residential	Commercial	Industrial
31.5	69	72	81
63	68	71	80
125	62	66	75
250	54	60	70
500	48	54	64
1000	42	49	58
2000	36	44	53
4000	31	40	49
8000	29	37	46
A-scale levels	52 dB (A)	58 dB (A)	67 dB (A)

**TABLE II**

**Maximum Permissible Sound Pressure**  
(Levels in decibels re .0002 Microbars)

7:00 A.M. to 10:00 P.M.

Octave Band Center Frequency (Hz)	Ind. Into Commercial	Ind. Into Residential	Commercial Into Residential
31.5	80	79	75
63	79	78	74
125	74	73	69
250	69	67	64
500	63	61	58
1000	57	55	52
2000	52	50	47
4000	48	46	43
8000	45	43	40
A-scale levels	66 dB (A)	64 dB (A)	61 dB (A)

10:00 P.M. to 7:00 A.M.

Octave Band Center Frequency (Hz)	Ind. Into Commercial	Ind. Into Residential	Commercial Into Residential
31.5	75	74	72
63	74	73	71
125	69	68	65
250	64	63	57
500	58	57	51
1000	52	51	45
2000	47	46	39
4000	43	42	34

**Sec. 12-82. Light motor vehicle noise.**

No person shall cause noise levels from the operation of a light motor vehicle and motorcycles in excess of the sound levels set forth in tables III and IV below.

**TABLE III**

**Passby Vehicle Sound Limits**

Weighted and sound level limits for operation on roadways specified at fifty (50) feet from the centerline of the vehicle travel lane:

Posted Speed Zone	Automobiles, Vans Light Trucks GVWR	On-Highway Motorcycles
Greater than 45 mph	78 dB	82 dB
45 mph or less	72 dB	78 dB
35 mph or less, level roadways, constant speed cruise, 200 feet or more from intersection	70 dB	74 dB

**TABLE IV**

**Stationary Vehicle Sound Limits**

Weighted sound level limits for stationary vehicles. Vehicle exhaust noise tests measurements at twenty (20) inches from exhaust outlet:

Automobile, Vans, Light Trucks, GVWR 8,000 lbs.	95 dB
On-highway motorcycles	99 dB

Add 2 dB for rear and mid-engine vehicles. Tests shall be conducted at an engine test speed of 3,000 RPM or one-half the indicated engine red line. (Code 1965, §22.09(6))

**Sec. 12-83. Variances.**

The City of Appleton Board of Health, upon final approval by the Common Council, shall have the authority, consistent with this section, to grant variances in accordance with the following provisions.

(a) **Special Variance Permits.**

- (1) **General.** A special variance permit may be issued upon request provided that the work producing such noise is necessary to promote the public health or welfare and reasonable

steps are taken to keep such noise at the lowest practical level.

- (2) **Special Community Events.** A variance may be issued for special events and similar gatherings, festivals, presentations and the like, which are limited in duration and are generally acceptable to the people of the community provided that precautions are taken to maintain the noises produced at the lowest practical level. The Health Officer, or designee, is authorized to issue a variance pursuant to this section upon receiving a complete application for an event meeting this section's criteria. Applications that are not approved shall, upon timely request of the applicant, be reviewed by the Board of Health at their next regularly scheduled meeting.
- (3) **Procedures.** Any person seeking a special variance permit pursuant to this section shall file an application with the Health Officer, to be submitted to the Board of Health, forty-five (45) days prior to commencement of the event or activity for which the variance permit is requested. The Board of Health, however, may waive the time limit when compliance therewith is impractical. The application must be made in writing and shall contain all the following pertinent information:
  - a. Dates required.
  - b. Time and place of operation.
  - c. Equipment operation involved.
  - d. Necessity for such permit.
  - e. Steps to be taken to minimize noise.
  - f. Name of responsible person who will be present at the operation site while the noise is produced.
- (4) **Issuance.** Upon final approval by the Common Council, a special variance permit shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance permit shall not become effective until all conditions are agreed to by applicant. Noncompliance with any condition of these special variance permits shall terminate the permit and subject the person holding it to compliance with this article.

- (5) **Extension or modification.** Application or extension of time limits specified in special variance permits or for modification of other substantial conditions shall be treated like applications for initial special variances.

(b) **Conditional Variances.**

- (1) It may not be technically or economically feasible for certain commercial or industrial sources of sound to comply with the standards set forth herein. Therefore, the Board of Health may grant variances from this section if it finds that strict compliance is unreasonable because:
  - a. Conditions are beyond the control of the person requesting such variance.
  - b. Special circumstances exist which would render strict compliance impractical.
  - c. Strict compliance would result in substantial curtailment or closing down of a business, plant, operation or the like.
  - d. Control technology is unavailable or available only at a prohibitive cost.
  - e. No other alternative facility or method is available.
- (2) **Application.** Application for a variance permit under this subsection shall be made in writing to the Health Officer for submittal to the Board of Health. Such application shall specify the grounds upon which the variance permit is sought and the date by which the source of any excess noise for which the variance is sought shall be brought into compliance with this section. An application for a variance permit shall be considered timely made if filed within thirty (30) days following due notification that it is in violation of this section. The proper filing of an application within such time shall toll all penalties provided in this section for any such violation until a final decision has been issued on the merits of such application. The Board of Health, within a reasonable amount of time, shall give public notice of the receipt of an application for a variance permit.
- (3) **Permit.** Within a reasonable time following receipt of an application for a variance permit and after public notice thereof has been given, the Board shall grant such

permit to an applicant if the Board finds that immediate compliance with the noise limitations as set forth in this section would result in unnecessary hardship to the applicant. In making the determination, the Board of Health shall balance the hardship to the applicant, the community, and other persons of not granting the variance, against the adverse impact on health, safety, and welfare of persons affected, the adverse effect on property affected and any other adverse impacts of granting the variance. Any person who claims to be adversely affected by the allowance of the variance permit may file a statement with the Board of Health containing information to support the claim. The Board of Health may require the applicant to submit information not contained in the application which may be necessary for making a determination under this subsection. Within five (5) days following the determination, the Board of Health shall place on file with the City Clerk a copy of the decision which shall specify the reasons for denying or granting the variance permit.

- (4) **Conditions.** Upon final approval by the Common Council, the Health Officer shall issue a variance permit under such conditions as are necessary to protect the public health, safety, and welfare, including a schedule for achieving compliance with noise limitations. Variances exceeding two (2) years may be granted only in exceptional cases, including those for which, in the opinion of the Board of Health, control technology is unavailable or available only at a prohibitive cost. Non-compliance with any conditions imposed on the variance shall terminate the variance and subject the person holding it to those provisions of this section for which the variance permit was granted.
- (5) **Extension and Modification.** Application for extension of time limits or modification of other conditions specified in the variance permit shall be treated like applications for an initial variance, except that the Board of Health must find that the need for such extension or modification clearly outweighs any adverse impacts of granting the extension or modification.
- (6) **Appeals.** Any applicant or other person aggrieved by the decision of the Board of Health or Common Council may seek such other legal relief as may be available.

(Ord 173-08, §1, 11-25-08)

**Cross reference(s)** – Board of Health, §2-76, et seq.

**Sec. 12-84. Sounding locomotive whistle.**

No railroad company or any of its agents, servants or employees shall blow any whistle on any engine within the limits of the city, except in those cases prescribed and designated by the laws of Wisconsin. This section does not prohibit the blowing of any whistle as a signal warning in cases of peril, fire or collision or other imminent danger. (Code 1965, §8.02(3); Ord 137-92, §1, 12-16-92, Ord 84-00, §1, 10-7-00)

**Sec. 12-85. Adoption of state law regarding sound-producing devices; impoundment; seizure and forfeiture.**

W.S.A. §66.0411 regarding impoundment, seizure and forfeiture of sound-producing devices in violation of this article is hereby adopted by reference and made an offense punishable as a violation of this code. (Ord 89-96, §1, 9-18-96)

**Sec. 12-86. Commercial and industrial construction**

New or substantially modified structures on land used or zoned as commercial or industrial shall be subject to site plan review to evaluate compliance with the provisions of this code.

**Sec. 12-87. Radio or other electric sound amplification device – prohibited.**

No person or business may use a radio or other similar electric sound amplification device so that sound emitting from said radio or amplification device is audible under normal conditions from a distance of seventy-five (75) or more feet. (Ord 84-05, §1, 8-23-05)

**Secs. 12-88 – 12-100. Reserved.**

**ARTICLE V. ABANDONED PROPERTY\***

**Sec. 12-101. Disposition generally.**

The provisions of W.S.A. §66.0139 are hereby adopted by reference. Except as otherwise provided in this article, all personal property which has been abandoned or remains unclaimed for a period of thirty (30) days, including bicycles or parts thereof, may be disposed of by public sale, private sale, conversion to public use, donation to charity, or disposed of by junking or salvage. The method of disposal shall be at the sole option of the Police Department. If the owner of the property is known, the thirty (30) day period shall commence on the date of mailing of a notice by regular mail to owner's last known address. If ownership is unknown, the thirty (30) day period shall commence on the date the property is taken into possession by the Police Department. Any property remaining unclaimed beyond the thirty (30) day period shall be subject to a storage fee in the amount on file in the Police Department, commencing with the expiration of the thirty (30) day period and continuing until the property is reclaimed or disposed of.  
(Code 1965, §10.18(6))

**Sec. 12-102. Abandoned vehicles.**

(a) **Abandonment prohibited.** No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or public or private property for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. When any such vehicle has been left unattended on any City street or highway or on any public or private property within the City without permission of the owner for more than forty-eight (48) hours, the vehicle is deemed abandoned and constitutes a public nuisance.

(b) **Impoundment.** Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of under subsection (d) of this section, except that if the Police Chief determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked by the City prior to expiration of the impoundment period upon determination by the Police Chief or his duly authorized representative that the vehicle is not wanted for evidence or other reason.

(c) **Notification of owner.** Any vehicle which is deemed abandoned and not disposed of under subsection (b) shall be retained in storage for a minimum period of ten (10) days after certified mail notice has been sent to the owner and lienholders of record to permit reclamation of the vehicle after payment of accrued charges. Such notice shall set forth the year, make, model and serial number of

the abandoned motor vehicle, the place where the vehicle is being held, and shall inform the owner and any lienholders of their right to reclaim the vehicle. The notice shall state that the failure of the owner or lienholders to exercise their rights to reclaim the vehicle under this section shall be deemed a waiver of all right, title, and interest in the vehicle and a consent to the sale of the vehicle.

(d) **Disposal of vehicle.** Each retained vehicle not reclaimed by its owner or lienholder may be sold pursuant to W.S.A. §342.40.

(e) **Responsibility for costs of impoundment and disposal.** The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not covered from the sale of the vehicle may be recovered in a civil action by the City against the owner.

(f) **Notice of sale or disposition.** Within five (5) days after the sale or disposal of a vehicle as provided in subsection (d) of this section, the Police Chief shall advise the State Department of Transportation, Division of Motor Vehicles, of such sale or disposition, on a form supplied by the division. A copy of such form shall also be given to the purchaser of the vehicle.

(Code 1965, §10.18(1) – (5); Ord 51-92, §1, 5-6-92; Ord 4-93, §1, 1-6-93, Ord 3-05, §1, 1-11-05)

**Cross reference(s)** – Traffic and vehicles, ch. 19

**State law reference(s)** – Abandoned vehicles, W.S.A. §342.40

**Secs. 12-103 – 12-120. Reserved.**

**ARTICLE VI. SECURITY ALARM SYSTEMS\***

**Sec. 12-121. Definitions.**

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

*Alarm business* means any person, property owner, firm, partnership or corporation who alters, installs, leases, maintains, repairs, replaces or services an alarm system or which causes any of these activities to take place.

*Alarm user* means any person, property owner, firm, partnership, corporation or governmental entity whose premise has an alarm system.

*Alarm system* means a device or system that emits, transmits or relays a remote or local audible, visual or electronic signal indicating an alarm condition and intended to or reasonably expected to summon police or fire services. Alarm system does not include an alarm installed on a vehicle.

*Calendar year* means the twelve- (12-) month period beginning January 1 and ending December 31.

*Central monitoring station* means a central location where remote detection devices installed at the premise of an alarm user automatically transmits a signal and the central location is manned twenty-four (24) hours a day by trained operators who monitor, receive, record, verify, validate or report the signal.

*Emergency communications center* means the communications center, which handles the emergency phone calls and radio communications for the Police and Fire Departments.

*Enhanced call verification* means an attempt by the alarm business or its representative to contact the alarm site, alarm user and/or keyholder by telephone and/or other electronic means, whether or not actual contact with a person is made, to attempt to determine whether an alarm signal is valid before requesting law enforcement to respond to the alarm signal, in an attempt to avoid an unnecessary alarm dispatch request. For purposes of this ordinance, telephone and/or other electronic verification shall require, as a minimum, that a second call be made to a different number if the first attempt fails to reach an alarm user or keyholder who can properly identify themselves, to attempt to determine whether an alarm signal is valid before requesting law enforcement dispatch.

*False alarm* means any signal, message or other communication transmitted by an alarm system, person or

other device which causes Police or Fire Department response in which it is determined by the City not to be of an existing emergency or unlawful situation.

**Fire Department** means the City Fire Department, its headquarters and any other location housing publicly-owned equipment serving the Fire Department.

**Keyholder** means a person or persons who will be responsible for responding to the premise of an alarm activation, who has access to the premise and the alarm system and who has the authority and ability to set or deactivate the system.

**Police Department** means the City Police Department, its headquarters and any other location housing equipment serving the Police Department.

**Verified response** means the alarm business or its representative has verified the legitimacy of an alarm at the scene through independent means such as witness verification, live listening devices or live video monitoring. (Code 1965, §22.10(2); Ord 15-93, §1, 1-21-93; Ord 119-06, §1, 1-1-07)

**Cross reference(s)** – Definitions and rules of construction generally, §1-2. Police Department, §2-346 et seq; buildings and building regulations, ch. 4; licenses, permits and business regulations, ch. 9.

**Sec. 12-122. Purpose of article.**

The purpose of this article is to reduce the number of false alarms by eliminating those which are preventable or avoidable and to establish control of the various types of alarm systems that would require police response at the location of an event reported by a signal which is transmitted by telephone or radio or which is otherwise relayed to the emergency communications center by a signal activated by an automated alarm device, including such devices already in use within the city. (Code 1965, §22.10(1))

**Sec. 12-123. Alarm permits.**

(a) **Requirement.** An alarm business shall not alter, install, lease, maintain, repair, replace or service any alarm system in the city of Appleton without first obtaining an alarm permit. An alarm user who uses an alarm system without the assistance of an alarm business must also obtain an alarm permit. If an alarm user who uses an alarm system without the assistance of an alarm business transfers the possession of the premise, the property owner obtaining possession of the property shall obtain an alarm permit or shall contract with a licensed alarm business for services within thirty (30) days of obtaining possession of the property if they continue to use the alarm system. Alarm

permits are not required for fire alarms. Alarm permits are not transferable.

(b) **Application.** An alarm business or alarm user desiring to secure a permit shall make application to the City Clerk and shall furnish all information deemed necessary by the Clerk.

(c) **Fee and duration.** An alarm permit shall be valid through December 31 of the year of its issuance, unless sooner revoked. The fee for the alarm permit shall be on file with the City Clerk’s Office. (Code 1965, §22.10(4); Ord 119-06, §1, 1-1-07)

**Sec. 12-124. Duties of the alarm business.**

(a) An alarm business shall use enhanced call verification or verified response prior to requesting a response by emergency services. Enhanced call verification or verified response shall not be used for hold-up, duress, panic or fire alarms.

(b) Any alarm equipment installed by an alarm business after the effective date of this ordinance shall meet the ANSI/SIA CP-01 standards.

(c) A central alarm monitoring station used by an alarm business shall meet the Underwriters Laboratory (UL) or Factory Mutual (FM) standards.

(d) An alarm business shall keep current records of client information including, but not limited to, names of alarm users, keyholders, addresses, phone numbers and other contact information to be used for enhanced call verification and keyholder notification. The alarm business shall provide this information to the central monitoring station.

(e) An alarm business shall provide written and oral instructions explaining the proper use and operation of the alarm system to each of its alarm users. In addition, an alarm business shall take reasonable steps to educate all alarm users in order to minimize the number of false alarms.

(f) An alarm business or representative shall be responsible for notifying a keyholder for the premise when a request is made for response by the Police Department.

(g) If an alarm user uses an alarm system without the assistance of an alarm business, the alarm user is subject to the same duties as an alarm business. (Code 1965, §22.10(3); Ord 119-06, §1, 1-1-07)

**Sec. 12-125. Exceptions to article.**

None of the provisions of this article shall prevent the City from providing special alarm monitoring services as may be required because of medical reasons or communicative disorders.

(Ord 119-06, §1, 1-1-07)

**Sec. 12-126. Prohibited devices.**

No person shall use or cause to permit to be used any telephone or electronic device or attachment that automatically selects a public primary telephone trunk line of the Police Department, Fire Department or emergency communications center and then reproduces any prerecorded message to report any unlawful act, fire or other emergency.

(Ord 119-06, §1, 1-1-07)

**Sec. 12-127. False alarm fee.**

(a) Any fees payable to the City which are delinquent may be assessed against the property involved as a special charge for current service, without notice, pursuant to Wisconsin Statutes Annotated §66.0627.

(b) If the Police Department responds to a false alarm, the alarm user shall pay the City a fee according to the following schedule of fees for any false alarm occurring in a calendar year:

- (1) First two (2) false alarms ..... No charge
- (2) Third, fourth and fifth false alarms .....\$75.00
- (3) Sixth, seventh and eighth false alarms .....  
.....\$150.00
- (4) Ninth, tenth, and eleventh false alarms .....  
.....\$300.00
- (5) Twelfth and subsequent false alarms .....  
.....\$600.00

(c) Discontinuance of response.

- (1) If the Police Department is cancelled by the emergency communications center while responding to an alarm, the alarm user may still be assessed a fee for a false alarm.
- (2) In cases where the alarm user has twelve (12) or more false alarms within a six- (6-) month period the Police Department may suspend response after the Chief of Police or designee sends written notification to the alarm user. In order to lift the suspension, the alarm user shall

submit written confirmation to the Chief of Police or designee that the alarm system has been inspected and repaired, if necessary, and/or additional measures have been taken to reduce the number of false alarms at that location. If the Chief of Police or designee determines that the actions taken are likely to prevent the occurrence of additional false alarms, the Police Department shall lift the suspension.

(d) Exceptions and appeals.

- (1) A fee shall not be charged if any of the following apply:
  - a. The alarm was activated by criminal activity or a legitimate emergency.
  - b. The alarm was activated after a power outage that lasted more than four (4) hours.
  - c. The alarm was activated after the premise was damaged by weather conditions.
  - d. The Fire Department has assessed a fee for a false fire alarm.
  - e. The Police Department was cancelled prior to arriving at the premise and documentation is provided that enhanced call verification or verified response was properly utilized.

(2) An alarm user may appeal the assessment of a false alarm fee by submitting written documentation to the Police Chief or designee within ten (10) business days after notification of the assessment of a fee. The Chief or designee must inform the alarm user of the decision in writing. If the alarm user further contests the Chief or designee's decision within ten (10) days of receiving the Chief or designee's decision, the alarm user may seek review by the Safety and Licensing Committee by submitting a written notification to the City Clerk's Office.

(Ord 119-06, §1, 1-1-07)

**Sec. 12-128. Violations and penalties.**

Any person, alarm user or alarm business that violates any of the provisions of this section may be subject to a forfeiture of no more than one hundred twenty-five dollars (\$125.00) for the first offense and no more than five hundred dollars (\$500.00) for the second and subsequent offenses. Each day that a violation occurs shall be considered a

separate offense. (Code 1965, §22.10(5); Ord 148-94, §1, 12-21-94; Ord 119-06, §1, 1-1-07)

**ARTICLE VII. CHRONIC NUISANCE PREMISES.**

**DIVISION 1. GENERALLY**

**Sec. 12-140. Findings.**

The Appleton Common Council finds that certain premises within the City receive and require more than the general, acceptable level of services from City departments. These premises place an undue and inappropriate burden on City of Appleton taxpayers. Nuisance activity contributes to the general decay of an affected neighborhood and negatively impacts law-abiding residents in these neighborhoods. This ordinance is intended to encourage responsible ownership of such properties such that they do not unduly burden the City's departments or taxpayers. This ordinance provides a progressive enforcement method to use when working with property owners to abate nuisance activities. Therefore, the Common Council determines that the City will charge the owners of such premises with the costs associated with abating nuisance activity at premises where nuisance activities chronically occur. This section is not intended to discourage crime victims or a person in legitimate need of police services from requesting them. This section does not affect a premises owner's duty to comply with the Fair Housing Laws, nor does it affect a premises owner's duty to comply with all other laws governing residential tenancies which are contained in Chapter 704 of the Wisconsin Statutes, Chapter ATCP 134 of the Wisconsin Administrative Code and other parts of this code.

**Sec. 12-141. Definitions.**

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

*Authorized official* means singularly or collectively, the Police Chief, Fire Chief, Health Officer, Inspections Supervisor or their designee with jurisdiction to enforce the various statutes and ordinances prohibiting nuisance activities.

*Chief of Police* means the City of Appleton Police Department Chief of Police or designee thereof.

*Chronic nuisance premises* means a premises that meets any of the following criteria:

- (1) A premises which has generated three (3) or more calls for police services that have resulted in enforcement action for nuisance activities on three (3) separate days within a ninety (90) day period or six (6) such calls within a one (1) year

APPLETON MUNICIPAL CODE

period. This includes enforcement action taken against any person associated with the premises while at or within two hundred feet (200) of the premises for a nuisance activity; or

- (2) A premises which has generated three (3) or more corrective orders from a City Inspections Department for nuisance activities from at least three (3) inspections occurring within a one (1) year period; or
- (3) A premises for which a court of law has determined that, pursuant to a search warrant request, probable cause exists that manufacture, distribution or delivery of a controlled substance has occurred on or in association with the premises within thirty (30) days prior to the date of the search warrant application; or
- (4) Is a premises which has had one (1) enforcement action associated with the premises resulting from the manufacture, delivery or distribution of a controlled substance(s) as defined in Chapter 961 of the Wisconsin Statutes or a premises which is used as a meeting place of a criminal gang, or that is used to facilitate the activities of a criminal gang as defined in s.939.22(9), Wis. Stats.
- (5) A premises which has any combination of six (6) or more individual contacts, corrective orders or enforcement actions as described in subsections (1) through (4) above within a one (1) year period.

**Chronic Nuisance Premises Notice (CNP Notice)** means the notice issued by the Chief of Police, Fire Chief, Health Officer and/or the Inspections Supervisor.

**Enforcement action** means any of the following: the physical arrest of an individual(s), the issuance of a citation for a law violation and/or referral of charges by the Police or Inspections to the City Attorney or District Attorney for prosecution for nuisance activities.

**Fire Chief** means the City of Appleton Fire Department Fire Chief or designee thereof.

**Health Officer** means the director in charge of the City of Appleton Health Department or designee thereof.

**Inspections Supervisor** means the person who supervises the Department of Public Works Inspections Division employees or designee thereof.

**City Inspections Department or Inspections** means the Inspections Divisions of the Department of Public Works,

Health and Fire Departments.

**Nuisance activities** may include any of the following activities, behaviors or conduct:

- (1) An act of harassment as defined in s. 947.013, Wis. Stats.
- (2) Disorderly conduct as defined in §10-9, Appleton Municipal Code (Code) or s. 947.01, Wis. Stats.
- (3) Crimes of violence as defined in ch. 940, Wis. Stats.
- (4) Resisting or obstructing an officer as prohibited by §10-10, Code or s. 946.41, Wis. Stats.
- (5) Indecent conduct as prohibited by §10-19, Code or s. 944.20 Wis. Stats.
- (6) Damage to property as prohibited by §10-23, Code or s. 943.01, Wis. Stats.
- (7) The production or creation of noises disturbing the peace, as prohibited by §12-80 or §12-87, Code.
- (8) Discharge or improper possession of a dangerous weapon as prohibited by §10-2, Code.
- (9) Crimes involving illegal possession of firearms as defined in ss. 941.23, 941.26, 941.28, 941.29 and 948.60, Wis. Stats.
- (10) Trespass to land as defined in s. 943.13, Wis. Stats. or criminal trespass to dwelling as defined in s. 943.14, Wis. Stats, or unlawful trespass as prohibited in §10-26, Code.
- (11) Loitering, obstructing a street or sidewalk, as prohibited by §16-9, Code.
- (12) Theft as defined in s. 943.20, Wis. Stats.
- (13) Arson as defined in s. 943.02, Wis. Stats.
- (14) Depositing rubbish as prohibited by §16-8 or §12-30, Code.
- (15) Keeping a place of prostitution as defined in s. 944.34, Wis. Stats.
- (16) Prostitution as prohibited by §10-20, Code or s. 944.30, Wis. Stats.

APPLETON CODE

- (17) Soliciting prostitutes as prohibited by s. 944.32, Wis. Stats.
- (18) Pandering as prohibited by §10-21, Code or s. 944.33, Wis. Stats.
- (19) Possessing an open container which contains alcohol beverages or consuming alcohol beverages upon any public street as prohibited by §10-14, Code.
- (20) Selling, offering for sale or giving away of any intoxicating liquors or fermented malt beverages without a license as provided in s. 125.04(1), Wis. Stats.
- (21) Underage person posses or consume alcoholic beverages as provided in s. 125.07(4)(b), Wis. Stats., 9-51, Code.
- (22) Adult providing or selling alcohol to underage person as provided in s. 125.07(1)(a)1., 9-51, Code.
- (23) Possession, manufacture, distribution or delivery of a controlled substance or related offenses as defined in ch. 961, Wis. Stats.
- (24) Maintaining a drug dwelling as defined in s. 961.42, Wis. Stats.
- (25) Illegal gambling as defined in s. 945.02, Wis. Stats.
- (26) Owning, keeping or harboring a dangerous animal or prohibited dangerous animal contrary to Chapter 3, Code.
- (27) Any other nuisances set forth in Chapter 12, Article II, Code.
- (28) Failing to maintain a property resulting in weeds, wild growth and general yard neglect as set forth in Chapter 12, Article III, Code.
- (29) Violations of the Fire Prevention and Protection Code, set forth in Chapter 6, Code.
- (30) Violations of the Minimum Housing Code, as prohibited by Chapter 4, Code.

***Person associated with*** means any person who, whenever engaged in a nuisance activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a premises or person present on a premises, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a property, person in charge, or owner of a premises.

***Person in charge*** means any person, in actual or constructive possession of a premises including, but not limited to, an owner or occupant of premises under his or her ownership or control.

***Premises*** means a commercial business, public or private clubhouse, a place of abode, a residence, a house or multiple dwelling unit for one (1) or more persons, including lodging houses, hotels, motels and tourist rooming houses, and associated common areas, yards and parking lots. In the case of multiple dwelling units. ***“Premises”***, as used in this section, may consist of any single unit providing complete, independent living facilities for one (1) or more persons, including provisions for living, sleeping, eating, cooking and sanitation.

**Secs. 12-142 – 12-144. Reserved.**

***Person*** means any natural person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying or using property in the city of Appleton.

**DIVISION 2. PROCEDURE**

**Sec. 12-145. Procedure.**

(a) When a premises meets the definition, and is declared a chronic nuisance, the authorized official shall provide written notice of the declaration to the premises owner. A courtesy copy will also be sent to the alderperson of the affected district. The Chronic Nuisance Premises Notice (“CNP Notice”) shall be deemed delivered if sent either by first class mail to the premises owner’s last known address or delivered in person to the premises owner. If the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's usual place of abode in the presence of some competent member of the family at least 14 years of age, or a competent adult currently residing there and who shall be informed of the contents of the CNP Notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the CNP Notice is sent by first class mail to the last known address of the owner as identified by the records of the City Assessor. The CNP Notice shall contain the following information:

- (1) Street address, parcel number or a legal description sufficient to identify the premises.
- (2) A concise statement, including a description of the relevant activities supporting the determination that the premises is a chronic nuisance premises.
- (3) A statement that the owner shall immediately notify the authorized official of any change in address to ensure receipt of future notices.
- (4) A statement that the actual costs of future enforcement may be assessed as a special charge against the premises.
- (5) A statement that the owner shall, within ten (10) days of the date the CNP Notice is mailed, contact the authorized official and schedule a meeting with that official to develop a written action plan to abate the nuisance, or notify the official in writing of the intention to appeal.
- (6) A statement that the premises owner shall at all times comply with the fair housing requirements contained in Ch. 8, Art. 2 of the Municipal Code when considering any action against a tenant based upon a CNP Notice.
- (7) A statement that the premises owner, in addition to actual abatement costs, may be subject to a forfeiture action with a penalty of not less than two hundred dollars (\$200) nor more than five

thousand dollars (\$5,000) for each day a chronic nuisance is allowed to continue.

- (8) A statement that if the premises is non-owner occupied, the premises owner shall within ten (10) days of the date the CNP Notice is issued, schedule attendance at a landlord training session offered by the Appleton Police Department and subsequently attend said training on the scheduled date.
- (b) (1) In reaching a determination that a premises is a chronic nuisance premises, activities that were reported to the Police or other City departments by the premises owner or on-site premises manager shall not be included as nuisance activities.
- (2) Sec. 968.075, Wis. Stats., broadly defines “domestic abuse”. Therefore, in reaching a determination that a premises is a chronic nuisance premises, activities that are “domestic abuse” incidents pursuant to s. 968.075, Stats., shall not be included as nuisance activities unless the incidents have been reviewed by the Chief of Police and the Office of the City Attorney and a determination is made that, based upon the specific facts of each incident, the activities should be deemed nuisance activities. In determining whether to include such activities, the Chief of Police and Office of the City Attorney shall consider the strong public policy in favor of domestic victims reporting alleged abuses, and this ordinance shall not operate to discourage such reports.
- (3) a. If the owner responds to the CNP Notice with a written action plan to abate the nuisance, the authorized official may accept, reject or work with the owner to modify the action plan. The plan is acceptable if it can reasonably be expected to result in abatement of the nuisance activities described in the CNP Notice within sixty (60) days.
  - b. Premises owners shall be counseled regarding nuisance abatement methods and strategies and shall be encouraged to submit a comprehensive nuisance abatement action plan that considers alternatives to eviction in situations where eviction is not the sole remedy available to abate the nuisance activity.
  - c. If the premises owner meets with the authorized official and presents an

APPLETON CODE

acceptable abatement action plan and implements the terms of the action plan, the authorized official will delay further enforcement of this ordinance, including cost recovery.

- d. If the premises owner ceases to cooperate with the efforts to abate the nuisance activities, the authorized official may reinstitute enforcement of this ordinance and the premises owner may be sent a Change In Status Letter. This letter will document the authorized official's efforts to contact and/or obtain cooperation of the owner.
- e. Failure by the premises owner to respond within ten (10) days as directed in this subdivision shall result in a forfeiture of no less than one thousand dollars (\$1,000) plus court costs and fees.

(4) Any premises owner who has been notified by the authorized official that their non-owner occupied premises is a chronic nuisance premise shall within ten (10) days, schedule attendance at a landlord training session offered by the Appleton Police Department and subsequently attend said training on the scheduled date. Failure to attend the approved landlord training shall result in a forfeiture of no less than two hundred fifty dollars (\$250) plus court costs and fees.

(c) Whenever the authorized official determines that any of the following have occurred:

- (1) A premises owner has failed to respond to the CNP Notice;
- (2) Enforcement action for an additional nuisance activity has occurred at a premises for which notice has been issued pursuant to Subsection (a) and this enforcement action has occurred not less than fifteen (15) days after the CNP Notice has been issued; or
- (3) An action plan submitted has not been completed;

Then the authorized official may calculate the actual costs of enforcement to abate this and any subsequent nuisance activities and may refer such cost to the City Finance Department so that the cost may be billed to the premises owner. The authorized official shall provide written notice to the premises owner of the decision to refer

the cost of enforcement to the City Finance Department. The notice shall contain:

- a. The street address or legal description sufficient for identification of the premises.
- b. A statement that the authorized official has referred the cost of enforcement to the City Finance Department.
- c. Notice of the premises owner's right to appeal pursuant to §12-147.

(d) Each subsequent incident of enforcement action for nuisance activity shall be deemed a separate violation and costs will continue to be assessed until the nuisance is abated.

**Sec. 12-146. Penalties and remedies.**

(a) **Cost recovery.** The authorized official shall keep an accurate account of the cost of enforcement and shall report it to the City Finance Department. The Finance Director shall establish a reasonable charge for the costs of enforcement of this section and charge any premises owner found to be in violation of this section the costs of enforcement in full or in part. Such costs shall be billed to the premises owner by invoice sent by regular mail and must be paid within thirty (30) days of the date on the invoice. Any unpaid invoice shall be a lien on such premises and may be assessed and collected as a special charge pursuant to s. 66.0627, Wis. Stats. A one hundred dollar (\$100) administrative fee shall be added to the cost of enforcement charged to the benefited premises any time the premises is declared a chronic nuisance premises.

(b) **Suspension of cost recovery.** If after the receipt of a billing notice from the Finance Department, the premises owner develops an acceptable action plan and implements the plan, the authorized official may suspend further enforcement of this ordinance. The premises owner is still responsible for any enforcement costs incurred prior to the premises owner's submitting an action plan, including the administrative fee. If the premises owner ceases to cooperate with the efforts to abate the nuisance activities, the authorized official may reinstitute enforcement of this ordinance after sending the premises owner a Change In Status letter.

(c) **Forfeiture.** A forfeiture action may be commenced by the City Attorney's Office for each enforcement action for nuisance activity occurring after the premises has been declared a chronic nuisance premises. The forfeiture shall be not less than two hundred dollars (\$200) nor more than five thousand dollars (\$5,000) for each enforcement action. Each violation and each day a violation continues or

occurs shall constitute a separate offense.

**Sec. 12-147. Appeal.**

Appeal of the determination of the authorized official may be made in writing to the Safety and Licensing Committee. Appeals of the action of the City Finance Department imposing special charges against the premises may be submitted in writing to the Finance Committee. Appeals shall be in writing, filed with the City Clerk no more than ten (10) days after notice is issued to the property owner.

(Ord 70-10, §1, 5-11-10; Ord 125-11, §1, 5-10-11)

**Sec. 12-148. Injunction.**

This section may be enforced by injunction.

**Sec. 12-149. Abatement in accordance with state law.**

Nothing in this section shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the Municipal Code or laws of the state.

**Sec. 12-150. When nuisance is deemed abated.**

The public nuisance created by a chronic nuisance premises shall be deemed abated when no enforcement action to address nuisance activities occurs and there are no Police, Building, Health or Fire inspection cases generated for a period of six (6) consecutive months from the date of compliance with the action plan.

**Sec. 12-151. Severability.**

The provisions of any part of this section are severable. If any provision or subsection hereof or the application thereof to any person or circumstances is held invalid, the other provisions, subsections and applications of such ordinance to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this section that the same would have been adopted had such invalid provisions, if any, not been included herein.

(Ord 2-09, §1, 1-13-09)

*(The next page is 875.)*

PARKS AND RECREATION

the interest of public safety, it is deemed necessary.  
(Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14)

**Sec. 13-6. Fees and charges.**

(a) The Committee shall have the authority to establish such fees as are deemed necessary for use of any facility, trail, program, activity, facility, shelter, pavilion, special use areas, or land area, or for the reservation of such activity or area.

(b) Fee schedules shall be available upon request.

(c) It shall be unlawful to use such areas without payment of such fee or charge.  
(Ord 121-07, §1, 8-7-07; Ord 5-14, §1m, 2-25-14)

**Sec. 13-7. Possession of alcoholic beverages.**

(a) No alcoholic beverages, other than fermented malt beverages and wine are allowed in any park.

(b) No person shall drink from, or possess an open container of permitted alcoholic beverage in any park before 10:00 a.m. or after 10:00 p.m.

(1) Time limitations in this section shall be extended in the posted areas of Appleton Memorial Park while organized league or tournament play is in progress.

(2) Time limitations in this section shall be extended to 9:00 a.m. at Reid Golf Course.

(c) No person shall drink from or possess an open container of permitted alcoholic beverage in any park other than Reid Golf Course without having a permit issued by the Appleton Police Department unless otherwise allowable by City Code or Policy.

(1) Permits shall be issued by the Appleton Police Department 24 hours a day, seven (7) days a week.

(2) Permits shall be valid for up to one year, with all permits expiring on March 1<sup>st</sup> 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 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)

**Sec. 13-8. 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. 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 §13-88); Ord 41-12, §1, 5-16-12; Ord 5-

14, §1, 2-25-14)

**Sec. 13-9. General regulations.**

(a) Motor-driven vehicles or devices are restricted to designated roadways and parking areas.

(b) The speed of motor-driven vehicles or devices shall be limited to 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 and a violation of this ordinance 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 reserved by official traffic signs indication the restriction, for vehicles displaying special registration plates under s. 341.14(10, (1a), (1e), (1m), or (1r), Wis. Stat., or a special identification card issued under s. 343.51, Wis. Stats., or vehicles registered in another jurisdiction and displaying a registration plate, card or emblem issued by the other jurisdiction which designates the vehicle as a vehicle used by a physically disabled person.

(e) Bathing or swimming within a park, including fountains and stormwater ponds, is prohibited except in city-operated swimming pools or other areas posted for such use.

(f) No person shall interfere in any manner with any employee in the performance of his or her assigned duties. (Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14)

*(The next page is 991.)*

## Chapter 18

### Taxation and Finance

#### ARTICLE I. IN GENERAL

Reserved.....	18-1 – 18-25
---------------	--------------

#### ARTICLE II. FINANCE

Processing of claims against City of Appleton.....	18-26
Budget .....	18-27
Preparation.....	18-27(a)
Transfer of funds.....	18-27(b)
Reserved.....	18-28 – 18-50

#### ARTICLE III. TAXATION

##### DIVISION 1. GENERALLY

Election regarding treasurer's bond .....	18-51
Payment of real estate taxes .....	18-52
Due date.....	18-52(a)
Installments .....	18-52(b)
Reserved.....	18-53 – 18-65

##### DIVISION 2. HOTEL AND MOTEL ROOM TAX

Definitions.....	18-66
Imposition of room tax.....	18-67
Proceeds of PAC room tax.....	18-68
Priority of payment.....	18-69
Tourism entity .....	18-70
Collection and administration of room tax.....	18-71
Permit required.....	18-72
Penalty for violations .....	18-73
Liability for tax on sale or transfer of business .....	18-74
Schedule of forfeiture.....	18-75
Confidentiality of information.....	18-76
Enforcement .....	18-77
Expiration of exhibition center room tax.....	18-78
Reserved.....	18-79

##### DIVISION 3. MOTOR VEHICLE REGISTRATION FEE

Authority .....	18-80
Purpose.....	18-81
Definitions.....	18-82
Imposition of motor vehicle registration fee .....	18-83
Administrative costs .....	18-84
Exemptions.....	18-85
Deposit of fee revenues.....	18-86
Reserved.....	18-87 – 18-100

#### ARTICLE IV. SPECIAL ASSESSMENTS

##### DIVISION 1. GENERALLY

Levy and collection procedure .....	18-101
Reserved.....	18-102
Reserved.....	18-103 – 18-115

##### DIVISION 2. SANITARY SEWERS

Assessment authorized; purpose.....	18-116
-------------------------------------	--------

APPLETON CODE

**\*Charter ordinance reference**--Finance Department, §4-161 et seq.

**Cross reference(s)**--Director of Finance, §2-235 et seq.

**State law reference(s)** – Municipal borrowing. W.S.A. Ch. 67.

**ARTICLE I. IN GENERAL**

**Secs. 18-1 – 18-25. Reserved.**

**ARTICLE II. FINANCE**

**Sec. 18-26. Processing of claims against City.**

W.S.A. §66.0609 is hereby adopted as the procedure for processing the payment of bills and other claims against the City.

(Code 1965, §2.05, §2.06)

**Sec. 18-27. Budget.**

(a) **Preparation.** The Mayor shall submit an executive budget to the Common Council on or before the first Wednesday in October in each year. The executive budget shall set forth in detail the amount proposed to be spent by each department, the various purposes therefore and the amounts of money proposed to be appropriated by the Common Council for each purpose. The executive budget shall be referred to the Finance Committee, which shall schedule and hold such budget hearings as it deems necessary, and shall transmit its proposed budget to the Common Council.

(b) **Transfer of funds.** No funds shall be transferred from one appropriation to another except by affirmative vote of a two-thirds (2/3) vote of all members of the Common Council.

(c) The total tax levy, defined as the City-purpose assessed tax rate times total assessed value, adjusted for any services transferred from the tax levy to an enterprise fund or that becomes established as its own taxing authority and less the affect of any new revenues for expenses previously financed by the tax levy and less any increases greater than inflation in current revenues, said increase in revenues measured by comparing the previous years' adopted budget to the present year's budget propose for approval, other than the tax levy plus applied fund balance and excepting one time grant revenues awarded to the City to be used in place of project borrowing shall not increase by more than the rate of inflation plus an allowance for growth, without a three-quarters (¾) vote of the Common Council. Inflation shall be defined as the Consumer Price Index for Urban Wage Earners and Clerical Workers (12-month previous from September of the present year, expenditure category -- "all items") and an allowance for growth shall be defined as 60% of the percentage change in Appleton's equalized value due to the net new construction less improvements removed as reported by the Wisconsin Department of Revenue on Form ERP-1. (Code 1965, §2.07(1)(a), (4); Ord 52-92, §1, 5-6-92; Ord 34-97, §1, 4-16-97; Ord 66-99, §1, 10-10-99; 122-07, §1, 8-7-07; Ord 84-08, §1, 5-27-08; Ord 70-10, §1, 5-11-10; Ord 125-11, §1, 5-10-11)

**State law reference(s)--Municipal budget, W.S.A. §62.12(2); preparation of budget, W.S.A. §65.01 et seq.**

Secs. 18-28 – 18-50. Reserved.

**ARTICLE III. TAXATION\***

**DIVISION 1. GENERALLY**

**Sec. 18-51. Election regarding treasurer's bond.**

The City elects not to give the bond on the Director of Finance provided for by W.S.A. §70.67(1). Pursuant to W.S.A. §70.67(2), the City shall be obligated to pay, in case the Director of Finance shall fail to do so, all state and county taxes required by law to be paid by such Director of Finance to the County treasurer.

(Code 1965, §2.03; Ord 4-93, §1, 1-6-93)

**State law reference**--Finance, W.S.A. §62.12.

**\*State law reference**--Power to levy, W.S.A. §65.07.

**Sec. 18-52. Payment of real estate taxes.**

(a) **Due date.** The time of payment of regular taxes on real estate in the City assessed for the City purposes is January 31.

(b) **Installments.** The taxpayer may pay his real estate taxes in four (4) equal installments provided the first installment is paid on or before January 31. The second installment shall be due on or before March 31. The third installment shall be due on or before May 31. The fourth installment shall be due on or before July 31.

(Code 1965, §2.04)

**Secs. 18-53 – 18-65. Reserved.**

**DIVISION 2. HOTEL AND MOTEL ROOM TAX\***

Company.

**Sec. 18-66. Definitions.**

Definitions. In addition to those terms defined in this section, the terms used in this Ordinance shall have the definition, if any, ascribed to them in §66.0615 of the Wisconsin Statutes.

**ARA** shall mean the Redevelopment Authority of the City of Appleton, Wisconsin, a Wisconsin body politic and corporate.

**CVB** shall mean the Fox Cities Convention & Visitors Bureau, Inc., a Wisconsin corporation.

**Exhibition Center Bonds** shall mean bonds issued or to be issued by the ARA as partial funding for the construction of a new Fox Cities Exhibition Center, or any refinance thereof, as well as for any other purpose authorized under that Exhibition Center Cooperation Agreement between the Municipalities located within the Fox Cities Tourism Zone, the ARA and the Fox Cities Room Tax Commission, dated as of November 24, 2015.

**Fox Cities Tourism Zone** shall mean that geographic area encompassing the City of Appleton, Wisconsin; the City of Kaukauna, Wisconsin; the City of Neenah, Wisconsin; the Village of Kimberly, Wisconsin; the Village of Little Chute, Wisconsin; the Town of Grand Chute, Wisconsin; the Town of Neenah, Wisconsin; the Town of Menasha, Wisconsin; the City of Menasha, Wisconsin and the Village of Sherwood, Wisconsin.

**Fox Cities Room Tax Commission** shall mean the Room Tax Commission created by the Municipalities within the Fox Cities Tourism Zone through that Amended and Restated Room Tax Commission Agreement dated November 24, 2015, in order to coordinate tourism promotion and tourism development within the Fox Cities Tourism Zone using the proceeds of Room Taxes imposed under this Ordinance, and having on its Board certain representatives of the Municipalities and certain representatives of the Wisconsin hotel and motel industry.

**PAC Bonds** shall mean those bonds issued by the ARA to partially fund construction of the Fox Cities Performing Arts Center.

**Pledge Agreement** shall mean that Amended and Restated Pledge and Security Agreement dated May 1, 2012 by and between the City of Appleton, Wisconsin; the City of Kaukauna, Wisconsin; the City of Neenah, Wisconsin; the Village of Kimberly, Wisconsin; the Village of Little Chute, Wisconsin; the Town of Grand Chute, Wisconsin; the Town of Neenah, Wisconsin; the Town of Menasha, Wisconsin; the Fox Cities Area Room Tax Commission and Associated Trust

**Room Tax** shall mean a tax on the privilege of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators or other persons furnishing accommodations which are available to the public, irrespective of whether membership is required for use of the accommodations, pursuant to the Room Tax Act.

**Room Tax Act** shall mean §66.0615 of the Wisconsin Statutes, as amended from time to time.

(Ord 99-85, §1, 10-16-85; Ord 106-15, §1, 1-1-16)

**State law reference(s)** – Similar definitions, W.S.A. §77.52(2)(a). **\*State law reference** – Authority, W.S.A. §66.0615.

**Sec. 18-67. Imposition of room tax.**

(a) Pursuant to the Room Tax Act, there is hereby imposed upon the privilege of furnishing, at retail (except sales for resale) rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public (collectively, “Operators”), irrespective of whether membership is required for use of the accommodations, within the City. Such Room Tax shall be imposed at the total rate of ten percent (10%). Operators shall remit all collected Room Tax revenues to the Director of Finance in accordance with the requirements of this Ordinance and the Room Tax Act. The proceeds shall then be paid to the Fox Cities Room Tax Commission or its designees or assigns, unless otherwise indicated herein, to be used for purposes of coordinating tourism promotion and tourism development within the Fox Cities Tourism Zone. A Room Tax is hereby imposed at the rate of ten percent (10%) within the City to be allocated as follows:

- (1) Room Tax in the amount of three percent (3%) shall be imposed and allocated toward the support of the CVB, to be used for the promotion of the Fox Cities Tourism Zone as a tourism destination (“CVB Room Tax”), except that:
  - a. The City may retain five percent (5%) of the revenues of this CVB Room Tax for general tourism support and development in the City in accordance with the requirements of the Room Tax Act.
- (2) A Room Tax in the amount of two percent (2%) shall be imposed and allocated toward payment of debt service on the PAC Bonds in accordance with that Cooperation Agreement dated June 1, 2000 to which the City is a party. The rate imposed as set forth in this subsection (2) shall be known as the “PAC Room Tax”. Upon full payment and satisfaction of the PAC

Bonds, the PAC Room Tax shall ultimately be reallocated toward the development and support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone as more fully set forth in Section (C) of this Ordinance.

- (3) A Room Tax in the amount of three percent (3%) shall be imposed and allocated toward payment of debt service on the Exhibition Center Bonds in accordance with that Exhibition Center Cooperation Agreement dated November 24, 2015 to which the City is a party (“Exhibition Center Room Tax”). The Exhibition Center Room Tax shall sunset and expire upon full payment and satisfaction of the Exhibition Center Bonds at a date to be determined. The Municipalities shall each provide written notice to Operators upon the full payment and satisfaction of the Exhibition Center bonds. Upon full satisfaction of the Exhibition Center Bonds, the Room Tax shall be reduced by three percent (3%), with such reduction being deemed to be the share of the Room Tax allocated to the Exhibition Center Room Tax. At the time that the Exhibition Center Bonds are fully satisfied, there may be an excess of Exhibition Center Room Tax proceeds collected above that amount needed to satisfy the Exhibition Center Bonds. In such an event, those excess funds shall be reallocated to the Tourism Development Fund as that term is referenced and defined in the Exhibition Center Cooperation Agreement.
- (4) A Room Tax in the amount of one percent (1%) (“Municipal Room Tax”) shall be retained by the City to be used for general tourism support and development in the Fox Cities Tourism Zone in accordance with the requirements of the Room Tax Act.
- (5) A Room Tax in the amount of one percent (1%) shall be imposed and allocated toward the support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone (“Tourism Facilities Room Tax”). The proceeds of the Tourism Facilities Room Tax shall be remitted to CVB to be held and administered as part of the Tourism Development Fund, as that term is referenced

and defined in the Exhibition Center Cooperation Agreement.

(Ord 99-85, §1, 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16)

**Sec. 18-68. Proceeds of PAC room tax.**

Notwithstanding anything in this Ordinance to the contrary, in order to honor existing contractual obligations, the proceeds of the PAC Room Tax shall continue to be directed to the Trustee under the Pledge Agreement until the PAC Bonds have been paid in full. Following full payment and satisfaction of the PAC Bonds, the proceeds generated from the PAC Room Tax for the calendar quarter in which the PAC Bonds were fully paid and satisfied shall be directed toward payment of debt service on the Exhibition Center Bonds, capitalized interest payments on the Exhibition Center Bonds or may be deposited into reserve and stabilization funds associated with the issuance of the Exhibition Center Bonds. Commencing on the first day of the next calendar quarter, all proceeds from the PAC Room Tax shall be directed toward the support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel or motel establishment within the Fox Cities Tourism Zone.

(Ord 99-85, §1(2), 10-16-85; Ord 4-93, §1, 1-6-93, Ord 38-00, §1, 5-20-00; Ord 106-15, §1, 1-1-16)

**Sec. 18-69. Priority of payment.**

(a) In the event any Operator or Municipality fails to remit the full amounts owed in any quarterly payment (“Deficient Payment”) under this Agreement, the Exhibition Center Cooperation Agreement or the ordinances executed as required thereunder, the parties agree and acknowledge that the Deficient Payment amounts actually received by the Commission shall be applied in the following priority order:

- (1) The Deficient Payment amounts received shall first be applied toward the three percent (3%) Room Tax imposed for the support of the CVB; and
  - a. The Deficient Payment amounts remaining after payment to the CVB as required in subsection (1) above, shall be applied toward the two percent (2%) Room Tax pledged as collateral for payment of the PAC Bonds; and
  - b. The Deficient Payment amounts remaining after payment toward the PAC Bonds as required in subsection (2) above, shall be applied toward the three percent (3%) Room Tax pledged as collateral for payment of the Exhibition Center Bonds;

## TAXATION AND FINANCE

and

- c. The Deficient Payment amounts remaining after payment toward the Exhibition Center Bonds as required in subsection (3) above, shall be applied toward the one percent (1%) Municipal Room Tax; and
- d. All remaining Deficient Payment amounts shall be applied toward the one percent (1%) Tourism Facilities Room Tax.

(Ord 99-85, §1(3), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16)

### **Sec. 18-70. Tourism entity.**

The CVB shall act as the “tourism entity” as that term is defined in the Room Tax Act, for purposes of providing staff, support services and assistance to the Fox Cities Room Tax Commission in developing and implementing programs to promote the Fox Cities Tourism Zone to visitors, as more fully set forth in an agreement between the Fox Cities Room Tax Commission and the CVB.

(Ord 99-85, §1(4) – (6), 10-16-85; Ord 4-93, §1, 1-6-93, Ord 106-15, §1, 1-1-16)

### **Sec. 18-71. Collection and administration of room tax.**

This ordinance shall be administered by the City Director of Finance. The tax imposed by this ordinance shall be payable quarterly and shall be due on the last day of the month next succeeding the calendar quarter in which it was imposed. A return shall be filed with the City Director of Finance by all Operators on or before the same date on which such tax is due and payable. Such return shall show the gross room receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period and such other information as the City deems necessary. Every person required to file such quarterly return shall, with his first return, elect to file an annual calendar year or fiscal year return. Such annual return shall be filed within ninety (90) days of the close of each such calendar or fiscal year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain certain such additional information as the City requires. Such annual returns shall be signed by the person required to file a return or his duly authorized agent, but need not be verified by oath. The City may, for good cause, extend the time of filing any return, but in no event longer than one (1) month from the filing date.

(Ord 99-85, §1(4) – (6), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16)

### **Sec. 18-72. Permit required.**

Every Operator under this ordinance shall file with the Director of Finance an application for a permit for each place

of business that is required to collect Room Tax hereunder. Every application for a permit shall be made upon a form prescribed by the City and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business, and such other information as the City requires. The application shall be signed by the owner if a sole proprietor and, if not a sole proprietor, by the person authorized to act on behalf of such sellers. At the time of making an application, the applicant shall pay the City an initial fee of twenty dollars (\$20.00) for each permit. A permit issued hereunder is non-transferable. (Ord 99-85, §1(8) – (10), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16)

### **Sec. 18-73. Penalty for violations.**

In addition to the Schedule of Forfeiture set forth in Sec. 18-75 herein, any Operator in violation of the terms of this Ordinance by failing to obtain and maintain a permit, when such permit is required, shall be subject to a penalty as set forth in Section 1-16 of the Appleton Code of Ordinances for each violation. Each room or unit separately rented or offered for rent, and each day of such rental or offer for rental of such unit shall be a separate violation. In addition, injunctive relief is hereby authorized to discontinue violation of this Ordinance. Any party deemed to have violated any of the provisions of this Ordinance shall be obligated to pay the costs of prosecution, in addition to actual attorney fees expended in the course of said enforcement. The City may revoke or suspend any permit issued hereunder for failure to comply with the provisions hereof.

(Ord 99-85, §1(11), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16)

### **Sec. 18-74. Liability for tax on sale or transfer of business.**

If any Operator liable for any amount of tax under this Ordinance sells or transfers all or substantially all of its interest in the hotel, motel or other accommodation, its successors or assigns shall withhold sufficient amounts from the purchase price to cover the amount of tax liability until the Operator produces a receipt from the City Treasurer that its liability has been paid in full or a certificate stating that no amount is due. If a successor subject to the tax imposed by this Ordinance fails to withhold such amount from the purchase price as required, it shall become personally liable for payment of the amount required to be withheld by it.

(Ord 99-85, §1(12)), 10-16-85; Ord 106-15, §1, 1-1-16)

### **Sec. 18-75. Schedule of forfeiture.**

In addition to paying the Room Taxes due hereunder, each Operator shall be required to forfeit an amount equal to twenty-five percent (25%) of the Room Tax due from the Operator to the City for the previous year or Five Thousand Dollars (\$5,000), whichever is less, for a failure to pay the

Room Tax due hereunder.  
(Ord 99-85, §1(13), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16)

**Sec. 18-76. Confidentiality of information.**

To the extent permitted under the law, the information provided to the City under §66.0615(2) of the Wisconsin Statutes shall remain confidential; provided, however, that the City or any employee thereof may use such information in the discharge of duties imposed by law or of the duties of their office or by order of a court. Persons violating the provisions of this subsection may be required to forfeit not less than \$100 nor more than \$500.

(Ord 99-85, §1(14), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16)

**Sec. 18-77. Enforcement**

The City shall enforce this ordinance in accordance with the Room Tax Act.

(Ord 99-85, §1(15), 10-16-85; Ord 106-15, §1, 1-1-16)

**Sec. 18-78. Expiration of exhibition center room tax.**

The Exhibition Center Room Tax shall expire upon full payment of the Exhibition Center Bonds; provided that Operators may not discontinue collection of the Exhibition Center Room Tax until the City provides notice that the Room Tax allocated to the Exhibition Center has been terminated by operation of this ordinance and the Exhibition Center Cooperation Agreement.

(Ord 99-85, §1 (16), 10-16-85; Ord 106-15, §1, 1-1-16)

**Sec. 18-79. Reserved.**

**DIVISION 3. MOTOR VEHICLE  
REGISTRATION FEE**

**Sec. 18-80. Authority.**

This division is adopted pursuant to the authority granted by Wisconsin Statutes §341.35, as from time to time amended.

**Sec. 18-81. Purpose.**

The purpose of this ordinance is to provide the City of Appleton a source of revenue to be used to assist with existing road construction replacement.

**Sec. 18-82. Definitions.**

In this section, a “motor vehicle” means an automobile or motor truck registered under §341.25(1)(c) at a gross weight of not more than 8,000 lbs.

**Sec. 18-83. Imposition of motor vehicle registration fee.**

(a) Pursuant to §341.35 of the Wisconsin Statutes, an annual flat city registration fee as set forth herein, in the amount of twenty dollars (\$20.00) is hereby imposed on all motor vehicles registered in the state of Wisconsin that are customarily kept in the city of Appleton.

(b) This fee shall be paid by the registration applicant at the time that a motor vehicle is first registered and at each time of registration renewal.

(c) The City registration fee shall be paid as provided in Wisconsin Statutes §341.35(5).

(d) The City registration fee shall be in addition to State registration fees.

**Sec. 18-84. Administrative costs.**

The Wisconsin Department of Transportation shall retain a portion of monies collected equal to the actual administrative costs related to the collection of these fees. The method for computing the administrative costs will be reviewed annually by the Wisconsin Department of Transportation, as provided in Wisconsin Statutes §341.35.

**Sec. 18-85. Exemptions.**

The following motor vehicles are exempt from the annual City of Appleton vehicle registration fee:

(a) All vehicles exempted by Wisconsin Statutes Chapter 341 from payment of a state vehicle registration fee.

(b) All vehicles registered by the State of Wisconsin under §341.26 for a fee of five dollars (\$5.00).

(c) No City vehicle registration fee may be imposed on a motor vehicle which is a replacement for a motor vehicle for which a current City vehicle registration fee has been paid.

**Sec. 18-86. Deposit of fee revenues.**

All monies under the applicable statute and this chapter remitted to the City by the Wisconsin Department of Transportation or other applicable agency shall be deposited into the City's general fund and be used solely for assisting with existing road construction replacement.

**Secs. 18-87 – 18-100. Reserved.**

**Editor's Note:** Article III, Division 3, generally known as the 'Wheel Tax' ordinance was adopted by the Appleton Common Council on October 1, 2014 and became effective for vehicles registered on or after January 1, 2015.

**ARTICLE IV. SPECIAL ASSESSMENTS\***

**DIVISION 1. GENERALLY**

**Sec. 18-101. Levy and collection procedure.**

The City, in levying and collecting special assessments for the construction and installation of public improvements in the City, shall proceed in the following manner:

- (1) Whenever the Common Council shall deem it necessary in the best interest of the City to construct or cause to be constructed any such improvements, all or part of the cost of which is to be assessed against the property benefited, it shall adopt a preliminary resolution declaring its intention to exercise its power of assessment for such stated purpose. Such resolution shall contain the information required by W.S.A. §66.0703(4).
- (2) Any and all persons who appear at the hearing shall be heard for or against the contemplated improvements and assessments.
- (3) After the hearing upon any proposed work or improvement, the Common Council may approve, disapprove or modify the report or it may refer the report back to the Finance Committee with such directions as it deems necessary to accomplish a fair and equitable assessment.
- (4) When the Common Council finally determines to proceed with the work or improvement, it shall by resolution direct the Finance Committee to proceed with such work or improvements, in accordance with the report as finally approved, and direct the Director of Public Works to determine the assessments. The City Clerk shall publish and mail the final resolution as provided for therein shall be deemed legally authorized and the assessments so provided shall be deemed duly and legally made, subject to the right of appeal provided for in W.S.A. §66.0701(2).
- (5) Whenever the actual cost of any project shall, upon completion or after the receipt of bids, be found to vary materially from the estimates or whenever any assessment is void or invalid for any reason, or whenever the Common Council shall determine to reconsider and reopen any assessment, it shall do so only after first giving notice as provided in W.S.A. §66.0703(8)(d).

APPLETON CODE

- (6) If the cost of the project is less than the special assessment levied by the Common Council, without notice or hearing, shall reduce such special assessment proportionately, and when any assessments or installments thereof have been paid, the excess over cost shall be applied to reduce succeeding unpaid installments, where the property owner is paying in installments, or refunded to the property owner. pertained to deferred payments, repealed §18-102 in its entirety.
- (7) Except as otherwise provided in this section, the special assessments may be paid in annual installments as provided in the special assessment policy. The first installment, if not sooner paid, shall be placed by the Director of Finance as a special charge in the first tax roll prepared after completion of the work, and one (1) of the subsequent installments shall be so placed in each of the annual tax rolls thereafter until all are levied. The first installment shall be due at the time the general property taxes are due, and the subsequent installments shall be due thereafter together with one (1) year's interest at the rate set in the Special Assessment Policy per annum on the unpaid balance. Installments of assessments not paid when due shall be returned to the county as delinquent the same as delinquent taxes. Payment in full may be made at any time, but the property owner shall pay accrued interest, if any, on such payment, to the date of payment.
- (8) Assessments in the amount less than that set annually by the Common Council in the assessment policy shall not be paid on the installment basis, and the Director of Finance shall place the assessment, as a special tax, in the first tax roll prepared after the publication of the final resolution of Common Council establishing the assessments.
- (9) Property owners may submit waivers pursuant to W.S.A. §66.0703(7)(b), and if the owners of all of the property to be specially benefited by such work or improvement submit such waiver the Common Council may make the assessment without notice and hearing.

**Secs. 18-103 – 18-115. Reserved.**

(Code 1965, §2.08; Ord 4-93, §1, 1-6-93; Ord 14-13, §1, 7-8-13)

**Cross reference(s)**-Streets, sidewalks and other public places, ch. 16; utilities, ch 20.

**\*\*State law reference**- Special assessments, W.S.A. §66.0703 et seq.

**Sec. 18-102. Reserved.**

**Editor's note** – Ord 109-92. §1, adopted Oct. 7, 1992, which

**DIVISION 2. SANITARY SEWERS\***

**Sec. 18-116. Assessment authorized; purpose.**

In addition to the special assessments authorized pursuant to §18-101 et seq., there shall be an additional assessment for sanitary sewers based upon the area of the benefited property. The purpose of this area-based assessment is to recover in an equitable way the cost of interceptor sewers, feeder mains, lift stations and similar appurtenances which benefit a discrete area of the City.

**Cross reference-**Sewers and wastewater disposal, §20-66 et seq.

**Editor's note:** §18-117 & §18-118 relating to service districts and levy procedure, were repealed in their entirety by Ord 16-96, §1, 3-6-95.

*(The next page is 1231.)*



## TRAFFIC AND VEHICLES

parking time limit, nor shall he reoccupy the same space unless the motor vehicle is moved at least one hundred (100) feet.

(Code 1965, §10.07(9)(b), (c) ; Ord 111-12, §1, 10-23-12)

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

### **Sec. 19-90. Parking violation forfeitures.**

(a) Any person to whom a ticket has been issued for violation of any overtime parking regulation shall incur a forfeiture of thirty-five dollars (\$35.00), which forfeiture may be paid by depositing twenty dollars (\$20.00) and the ticket in a City fine box or to the Director of Finance's office within ten (10) days of the date of the ticket.

(b) Any person to whom a ticket has been issued for any prohibited parking during a special event, or for stopping, standing or parking around schools, shall incur a forfeiture of fifty-five dollars (\$55.00), which forfeiture may be paid by depositing forty dollars (\$40.00) and the ticket in a City fine box or the Director of Finance's office within ten (10) days of the date of the ticket. Any person to whom a ticket has been issued for any other prohibited area parking regulation of the City shall incur a forfeiture of thirty-five dollars (\$35.00), which forfeiture may be paid by depositing twenty dollars (\$20.00) and the ticket in a City fine box or the Director of Finance's office within ten (10) days of the date of the ticket.

(c) Any person to whom a ticket has been issued for violation of W.S.A. §346.505, pertaining to handicap parking, shall incur a forfeiture of three hundred dollars (\$300.00), which forfeiture may be paid by depositing three hundred dollars (\$300.00) and the ticket in a City fine box or the Director of Finance's office within ten (10) days of the date of the ticket.

(d) Any person to whom a ticket has been issued for violation of parking in an area designated no parking, for parking too close to a driveway or crosswalk, for parking on posted private property or any other parking restriction for which a forfeiture is not otherwise specifically established in this division, shall incur a forfeiture of thirty-five dollars (\$35.00), which forfeiture may be paid by depositing twenty dollars (\$20.00) dollars and the ticket in a City fine box or the Director of Finance's office within ten (10) days of the date of the ticket.

(e) Any person to whom a ticket has been issued for violation of parking in an area from 2:00 a.m. to 5:00 a.m. shall incur a forfeiture of forty dollars (\$40.00), which forfeiture may be paid by depositing twenty-five dollars (\$25.00) and the ticket in a City fine box or the Director of

Finance's office within ten (10) days of the date of the ticket.

(f) Any person to whom was issued their first and second ticket in any calendar year for a violation of any meter parking regulation shall incur a forfeiture of twenty dollars (\$20.00), which forfeiture may be paid by depositing five dollars (\$5.00) and the ticket in a City fine box or to the Director of Finance's office within ten (10) days of the ticket.

(g) Any person to whom was issued their third through fifth ticket in any calendar year for a violation of any meter parking regulation shall incur a forfeiture of twenty-five dollars (\$25.00), which forfeiture may be paid by depositing ten dollars (\$10.00) and the ticket in a City fine box or to the Director of Finance's office within ten (10) days of the ticket.

(h) Any person to whom was issued their sixth ticket, or any ticket thereafter, in any calendar year for a violation of any meter parking regulation shall incur a forfeiture of sixty-five dollars (\$65.00), which forfeiture may be paid by depositing fifty-five dollars (\$50.00) and the ticket in a City fine box or to the Director of Finance's office within ten (10) days of the ticket.

(i) Any person wanting to contest a parking ticket shall first, within ten (10) days of the date of issuance, file an application for administrative review with the City Parking Utility. Following the administrative review, any person who is not satisfied with the results of that review shall submit a written request for judicial review to the City Parking Utility. The request for judicial review shall be submitted within thirty (30) days from the date the ticket was issued, or within ten (10) days after the administrative review is completed, whichever is later. When a timely request for administrative or judicial review is not filed, the ticket shall be presumed to be uncontested. Forfeitures shall be paid within ten (10) days of the ticket's issuance or, an action may be commenced by the City in accordance with the uniform traffic procedure for nonmoving violations as set forth in Sec. 345.28, Stats. and it may forward the matter to the State Department of Transportation for enforcement under the state traffic violation and registration program.

(j) When a vehicle is the subject to seven (7) or more outstanding, unpaid parking tickets issued in accordance with this section, the vehicle may be considered in chronic violation of the parking ordinances until such time that all outstanding parking tickets are paid in full. Further, upon a subsequent violation, a vehicle considered in chronic violation of the parking ordinance pursuant to this section may be towed and impounded at the owner's expense.

APPLETON CODE

(Code 1965, §10.17(2); Ord 4-93, §1, 1-6-93; Ord 142-93, §1, 9-15-93; Ord 143-93, § 1, 9-15-93; Ord 144-93, §1, 9-15-93; Ord 154-93, §1, 9-15-93; Ord 155-93, §1, 9-15-93; Ord 137-95, §1, 12-20-95; Ord 154-01, §1, 9-10-01, Ord 68-05, §1, 5-7-05; Ord 107-05, §1, 1-1-06; Ord 122-05, §1, 1-1-06; Ord 96-10, §1, 6-22-10; Ord 103-10, §1, 1-1-11; Ord 112-12, §1, 10-23-12)

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

**Sec. 19-91. Parking in front and side yard in residential district; parking on terraces.**

(a) **Purpose.** The purpose of this section is to clearly define acceptable areas for parking vehicles within the front yard or side yard, as defined in Chapter 23, of private properties in order to address off-street parking issues and maintain the acceptable appearance of City neighborhoods.

(b) **Residential driveway.** Residential driveway means that area leading directly from the street to a garage, carport, or rear yard parking area.

(c) **Front yard.** No person shall park or store any motor vehicle, or recreational vehicle of 26 feet or less, i.e., a “camping trailer”, “fifth-wheel trailer”, “motor home” or “recreational vehicle” as those terms are defined by §340.01, Stats., as well as boat trailers and boats, utilities trailers, trailered snowmobiles, trailered jet-ski(s) or fishing shanties in the front yard of any residential district except upon a residential driveway and shall be subject to temporary recreational vehicle parking restrictions set forth in §19-92. No recreational vehicle or boat greater than 26 feet in length may be parked or stored in the front yard of any residential district. Any vehicle parked in the front yard, shall be parked within the driveway area in such a manner as to maintain all wheels on the driveway surface, and shall neither obstruct the sidewalk nor extend onto the driveway apron. All driveways on one- (1-) and two- (2-) family residential properties, as well as those properties with three (3) dwelling units, shall be paved with concrete, asphalt, brick or a similar hard surface within one (1) year of construction. Carriage style driveways with a minimum of 2-foot wide strips paved with concrete, asphalt or brick and maintained grass medians in accordance with Sec. 12-59(c)(3) are permitted. Those existing driveways on one- (1-) and two- (2-) family properties, as well as those properties with three (3) dwelling units, that are not currently paved as described for new driveways shall be so paved within one (1) year of notice of non-compliance. (Ord 84-15, §1, 10-27-15)

(d) **Side yard.** No person shall park or store any

Supp. #86

motor vehicle, “camping trailer”, “fifth-wheel trailer”, “motor home” or “recreational vehicle” as those terms are defined by §340.01, Stats., as well as boat trailers and trailered boats, pick-up camper tops, utilities trailers, trailered snowmobiles, trailered jet-ski(s) or fishing shanties in the side yard of any residential district unless the side yard parking area is no greater than twelve (12) feet wide and extends no farther than the rear plane of the principal structure on the property. Side yard parking areas are required to be hard surfaced and subject to the requirements of this section, including the requirement for a permit for the installation of said hard surface.

(e) **Permits.** The Inspections Supervisor shall issue a driveway extension permit or a side yard parking pad permit upon the filing of a proper application, which shall be on a form furnished by the Director and shall describe the nature of the work, material to be used, measurements, plans and/or specifications of the proposed extension as well as such other information as may be required for inspection. Permits shall be issued prior to the start of the work. Fees for this permit shall be kept on file with the City Clerk.

(f) Extensions to the driveway surface, beyond the area previously described in section (d), are permissible provided all of the following apply:

- (1) The property owner has obtained appropriate driveway extension permit; and,
- (2) Both the extension and driveway are paved as provided in sec. (d) above; and,
- (3) The extension is no greater than twelve (12) feet wide; and,
- (4) The paved area is no longer than the length of the driveway, extending from the edge of the City’s right-of-way to a carport, rear yard parking area or garage. For the purpose of creating a parking pad, the paved area may extend along the side of the principal structure on the property and may extend to the rear plane of said structure; and,
- (5) Whenever practicable, the extension shall be located on the side of the driveway such that it extends toward the nearest side lot line. When such a configuration is not possible, the property owner may install an extension no greater than four (4) feet into the greater front yard. Any extension into the greater front yard of the property that is more than four (4) feet wide shall require approval from the

TRAFFIC AND VEHICLES

Municipal Services Committee.

- (6) This section shall not apply toward paved circular driveways.
- (7) The paved area shall meet any other requirements of the Municipal Code including, but not limited to, zoning requirements and the Driveway Installation Policy.

(g) Appeals to the requirements of this section shall be filed with the Inspections Supervisor and heard by the Municipal Services Committee. In hearing and deciding appeals, the Committee shall have the power to grant relief from the terms of this section only where there are unusual and practical difficulties or undue hardships due to an irregular shape of the lot, topographical, or other conditions present, as contrasted with merely granting an advantage or convenience. Decisions of the Committee shall be consistent with the purpose and intent of this section.

(h) Relief granted by the Municipal Services Committee, pursuant to (g) above, shall run with the land. (Ord 85-15, §1, 10-27-15)

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

(Code 1965, §10.04(2); Ord 179-02, §1, 8-27-02, Ord 16-05, §1, 2-22-05; Ord 126-06, §1, 10-10-06; Ord 156-10, §1, 10-26-10; Ord 157-10, §1, 10-26-10; Ord 159-10, §1, 11-9-10, Ord 144-11, §1, 6-7-11)

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

**Sec. 19-92. Recreational and commercial vehicle parking and storage in residential district.**

(a) **Definitions.** For the purposes of this section, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise.

**Recreational vehicle** means a “camping trailer”, “fifth-wheel trailer”, “motor home” or “recreational vehicle” as those terms are defined by §340.01, Stats. It also includes trailers and boats, pick-up camper tops, utilities trailers, trailered snowmobiles, trailered jet-ski(s) or fishing shanties.

(b) When associated with residential dwellings:

- (1) The outdoor storage of a commercial vehicle or commercial trailer shall be restricted to a vehicle or trailer owned or leased by the occupant(s) of the lot upon which the vehicles are stored.
- (2) The enclosed parking or storage of not more than one (1) commercial or service vehicle rated at Class A – D may be permitted within an attached garage, attached carport, detached garage, and/or detached carport, provided that such vehicle is used by the occupant(s) of the lot upon which the vehicle is parked or stored.
- (3) The outdoor parking or storage of not more than one (1) commercial or service vehicle rated at Class A – D or school bus, may be permitted, provided that such vehicle is parked or stored in the side yard and/or rear yard only and used by the occupant(s) of the lot upon which the vehicle is parked or stored.
- (4) **Recreational vehicle storage.** The outdoor storage of not more than one (1) recreational vehicle in areas other than those addressed in §19-91 may be permitted provided:

- a. Such recreational vehicle is owned or leased by the occupant(s) of the lot upon which the recreational vehicle is stored.
- b. Such recreational vehicle shall not be used for business, living, sleeping, or housekeeping purposes.
- c. Such recreational vehicle shall not be permanently connected to sewer lines, water lines, or electricity.
- d. Such recreational vehicle shall not be used for the storage of goods, materials or equipment not normally a part of or essential to the immediate use in that vehicle or trailer.

(c) **Recreational vehicle parking in front yard.** Unoccupied recreational vehicles of 26 feet in length or less as defined in §19-92 may be parked in a front yard driveway. (Code 1965, §11.15(3)(c); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 131-96, §1, 12-18-96; Ord 145-11, §1, 6-7-11)

**Sec. 19-93. Nighttime parking on street or alley.**

No operator of any vehicle shall park the vehicle upon any street or alley between 2:00 a.m. and 5:00 a.m. without permission by the Police Department or in cases of construction a permit may be given by the Department of Public Works. Any vehicle parked in violation of this section may be towed at the owner's expense.  
(Code 1965, §10.05; Ord 18-96, §1, 3-06-96; Ord 57-99, §1, 8-22-99)

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

**Sec. 19-94. Snow emergencies.**

(a) Definitions. For purposes of this section:

**Emergency snowstorm** means one in which snow is falling in such manner as to produce a congestion of traffic or impede the operation of emergency vehicles.

**Emergency vehicles** include police squad cars, firefighting apparatus, ambulances, rescue squad cars and City-owned or City-hired snowplows, snow removal equipment and machinery or emergency vehicles.

(b) **Declaration of emergency.** During emergency snowstorms or when the City has experienced heavy snowfalls in which the accumulation of snow has narrowed streets or impeded normal traffic flow, the Mayor or, in his absence, the Director of Public Works or designee thereof may declare a snow emergency and may impose emergency parking restrictions while the emergency is in effect. Notice of the emergency shall, whenever practicable, be provided by publication in a newspaper, announcement over the radio or television, electronic communication or by other appropriate or convenient means.  
(Ord 30-99, §1, 5-8-99)

(c) **General parking restrictions.** During the following snow emergencies certain parking restrictions shall be enforced and vehicles found in violation may be ticketed and towed at the owner's expense:

- (1) Class I – During a class I snow emergency there shall be no parking on any City street from 2:00 a.m. to 5:00 a.m. The Police Department's authority to grant permission to park on City streets between 2:00 a.m. and 5:00 a.m. shall be suspended for the duration of the snow emergency. Regular parking restrictions shall apply beginning at 5:00 a.m. and ending at 2:00 a.m. the following day.

- (2) Class II – During a class II snow emergency there shall be no parking on any City street from 2:00 a.m. to 5:00 a.m., and at all other times parking is restricted to the even-numbered side of the street on even-numbered days and to the odd-numbered side of the street on odd-numbered days. Day means the period of time beginning at 5:00 a.m. and ending at 2:00 a.m. the following day.

- (3) Class III – During a class III snow emergency there shall be no parking on any City street at any time.

- (4) A snow emergency shall remain in effect until it is withdrawn by the issuing authority.

(Code 1965, §10.09, Ord 108-04, §1, 8-10-04 ; Ord 5-12, §1, 2-7-12)

**Sec. 19-95. Loading zones.**

(a) **Truck loading zones.**

(1) Truck loading zones are established to prevent double parking and other illegal parking by designating a supply of parking spaces dedicated to the delivery of merchandise by truck to commercial properties.

(2) While being actively loaded or unloaded, motor vehicles that are designed, used or maintained primarily for the transportation of property and displaying commercial signage, may park in a truck loading zone for no more than thirty (30) minutes.

- a. Commercial signage required by this section must be:
  - 1. On both sides of the vehicle;
  - 2. Magnetic, static cling vinyl (which may not be used on tinted windows), decals or permanently painted;
  - 3. No smaller than 8 ½" by 11";
  - 4. In 2-inch or larger lettering;
  - 5. In a color that clearly contrasts with the color on which the lettering is displayed; and
  - 6. In lettering that is clearly visible at a distance of twenty (20) feet.

TRAFFIC AND VEHICLES

**DIVISION 2. PARKING METERS AND CITY  
PARKING FACILITIES**

(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.**

**Sec. 19-106. City-owned parking facilities.**

The property owned by the City and used as public parking facilities for vehicles shall be described as follows:

- (1) Yellow Ramp.
- (2) Red Ramp.
- (3) Parking Lot No. 9: the lot situated on the west side of South Walnut in the 100 block.
- (4) Library Plaza: the library parking lot. The parking lot is adjacent to the library and bounded on the east by North Oneida Street and on the west by North Appleton Street.
- (5) Blue Ramp.
- (6) Green Ramp.

(Code 1965, §10.06(1); Ord 136-89, §1, 10-18-89; Ord 145-93, §1, 9-15-93; Ord 146-93, §1, 9-15-93; Ord 137-95, §1, 12-20-95; Ord 155-01, §1, 9-10-01; Ord 102-10, §1, 7-13-10; Ord 113-12, §1, 10-23-12)

**Sec. 19-107. Parking meters and pay stations – generally.**

(a) The Common Council may authorize the installation, regulation, control, maintenance and use of parking meters and pay stations in the streets, public parking lots or public parking ramps. Parking meters shall be placed next to individual parking places and shall display the hours and days of operation. Pay stations shall be located in the vicinity of the parking stalls which are controlled by it and shall also display the hours and days of operation.

(b) Each parking meter shall be so set as to display a signal showing legal parking upon the deposit of funds as specified in this section. Each meter shall be so arranged that, upon the expiration of the parking limit, it will indicate that the lawful parking period as fixed by the ordinance of the City has expired.

(c) When any vehicle shall be parked in a parking space next to a parking meter under the provisions of this section, the owner or operator of the vehicle shall, upon entering the parking space, immediately deposit in the parking meter the required funds, and the person may use the parking space for the vehicle during the time limit or a fractional part thereof as provided in this division. If a vehicle remains parked in any parking space beyond the limit

APPLETON CODE

fixed by the ordinance of the City for such parking space, or fractional part thereof, depending on the funds deposited, the parking meter shall display a sign showing illegal parking and in that event such vehicle shall be considered as having been parked overtime and beyond the time fixed in the ordinance by the City and the parking of a vehicle overtime or beyond the time fixed by the ordinance of the City in any such part of a street where any such meter is located shall be in violation of this section.

(d) No person shall deposit funds in a meter for the purpose of extending the parking time beyond the time limit fixed in this division for parking in the parking space for which a parking meter is placed.

(e) Official markings. When markings upon the curb or the pavement of a street designate a parking space, no person shall stand or park a vehicle in such designated parking space so that any part of the vehicle occupies more than one space or protrudes beyond the markings designating such a space, except that a vehicle which is of a size too large to be parked within a single designated parking space shall be parked with the front bumper at the front of the space with the rear of the vehicle extending as little as possible into the adjoining space to the rear, or vice-versa, and shall be responsible for depositing the required funds into the parking meters for both occupied stalls. Notwithstanding the above, no vehicle that is too long and/or too wide to be parked within a single designated parking space shall be parked in such a space which is designated for angle parking.

(f) No person shall deposit or cause to be deposited in any parking meter any slug, device or metallic substitute for a coin of the United States with the exception of City-approved tokens.

(g) No person shall deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under this section.

(h) All parking meter and parking pay station revenues shall be kept in a separate fund called the parking revenue fund. The purpose of the fund shall be for the purchase, maintenance, operation, enforcement, administration and construction of all parking facilities. The Common Council may, from time to time, direct the fund to be used for other purposes relating to parking facilities, including the right to pledge parking revenues for the payment of bonds issued for the construction of parking facilities. No unexpended funds are to be returned to the general funds. All earnings, upon the investment of unexpended funds, shall constitute an addition to the fund.

(i) "Parking Pay Stations"

(1) No person shall, in any parking space controlled by a "Parking Pay Station," park a vehicle without purchasing the amount of parking time desired from such machine.

(2) No person shall, in any parking space controlled by a "Parking Pay Station," which allows a person to purchase the amount of parking time desired from a machine that dispenses a receipt, park a vehicle in excess of the amount of time indicated on such receipt, or on posted signs.

(Code 1965, §10.07(1) - (8); Ord 137-95, §1, 12-20-95; Ord 114-12, §1, 10-23-12)

**Cross reference(s)** - Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; director of public works, §2-291 et seq.

**Sec. 19-108. Same – suspension of fees on certain days.**

All parking meter fees will be suspended for the twenty-four- (24-) hour period beginning at midnight preceding and ending at midnight following on Sundays and on the following holidays:

- (1) New Year's Day.
- (2) Memorial Day.
- (3) Independence Day.
- (4) Labor Day.
- (5) Thanksgiving Day.
- (6) Christmas Day.

(Code 1965, §10.07(12))

**Sec. 19-109. Hours of operation of metered parking facilities.**

(a) On-street metered parking: 9:00 a.m. to 6:00 p.m. Monday through Saturday, excluding City observed holidays (see §19-108).

(b) Off-street metered parking lots: 9:00 a.m. to 6:00 p.m. Monday through Saturday, excluding City observed holidays (see §19-108).

(c) Blue Ramp: 9:00 a.m. to 9:00 p.m. Monday through Saturday, excluding City observed holidays (see §19-108). (Code 1965, §10.07(10)(a); Ord 71-89, §1(A), 6-7-89; Ord

## APPLETON CODE

**NAVD or NORTH AMERICAN VERTICAL DATUM.** Elevations referenced to mean sea level datum, 1988 adjustment.

**NGVD or National Geodetic Vertical Datum.** Elevations referenced to mean sea level datum, 1929 adjustment.

**New construction.** For floodplain management purposes, “new construction” means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

**Nonconforming structure.** An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

**Nonconforming use.** An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

**Obstruction to flow.** Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

**Official floodplain zoning map.** That map, or collection of maps, adopted and made part of this ordinance, as described in §23-206(b), which has been approved by the Department and FEMA.

**Open space use.** Those uses having a relatively low flood damage potential and not involving structures.

**Ordinary high water mark.** The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

**Person.** An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

**Private sewage system.** A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

**Public utilities.** Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

**Reasonably safe from flooding.** Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

**Regional flood.** A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

**Start of construction.** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

## ZONING

For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure.** Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

**Subdivision.** Has the meaning given in §236.02(12), Wis. Stats.

**Substantial damage.** Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent (50%) of the equalized assessed value of the structure before the damage occurred.

**Unnecessary hardship.** Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

**Variance.** An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

**Violation.** The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

**Watershed.** The entire region contributing runoff or surface water to a watercourse or body of water.

**Water surface profile.** A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

**Well.** An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

(Ord 54-06, §1, 3-21-06; Ord 19-09, §1, 1-13-09; Ord 106-10, §1, 7-13-10)

### Sec. 23-206. General provisions.

(a) **Areas to be regulated.** This ordinance regulates all areas that would be covered by the regional flood or base flood.

**Note:** Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

(b) **Official maps and revisions.** The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the City of Appleton Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Division of Inspections of the Department of Public Works for the City of Appleton. If more than one map or revision is referenced, the most restrictive information shall apply.

(1) **Official maps based on the FIS:**

- a. Calumet County Flood Insurance Rate Map (FIRM), panel numbers 55015C0007E, 55015C0026E and 55015C0027E dated February 4, 2009; with corresponding profiles that are based on the Calumet County Flood Insurance Study (FIS), dated

## APPLETON CODE

February 2009, volume number 55015CV000A.

- b. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0304E, and 55087C0308E dated January 20, 2016; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated January 20, 2016, volume number 55087CV000B.
- c. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0309D, 55087C0314D, 55087C0316D, 55087C0317D, 55087C0318D, 55087C0319D, 55087C0330, 55087C0338D, 55087C0427D, 55087C0431D and 55087C451D dated July 22, 2010; with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A.
- d. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0328D, 55087C0329D, 55087C0336D, 55087C0337D dated July 22, 2010 and revised August 23, 2013 with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A, all revised and annotated pursuant to FEMA Letter of Map Revision Determination Document Case No: 12-05-6032P, Issue Date April 10, 2013, Effective Date August 23, 2013.
- e. LOMR – Case #11-05-7670P, Floodway and Floodplain revisions between Flood Insurance Study (FIS) Cross Section AW to BA, Outagamie County Flood Insurance Rate Map (FIRM) panels 55087C0318D and 55087C0319D, dated July 22, 2010. This reflects changes on the Fox River from just downstream of the Private Middle Dam to approximately 250 feet upstream of the Appleton Upper Dam.
- f. LOMR – Case #13-05-7920P, Floodplain revisions between Flood Insurance Study (FIS) Cross Section AN to AM, Outagamie County Flood Insurance Rate panels 55087C0319D, dated July 22, 2010. This reflects changes along the south side of the Fox River from the College Avenue Bridge to approximately 850 feet downstream.
- g. City of Appleton Kensington Pond Dam Break Analysis Hydraulic Shadow, Per Figure F-9 of Dam Failure Analysis and Assignment of the Hazard Rating for Kensington Pond Dam, by Earth Tech, dated January 2008, on file with City of Appleton Department of Public Works.

(2) ***Official Maps based on other studies:***

- a. Outagamie County Flood Storage District Map Panel 1 of 2 approved by Wisconsin Department of Natural Resources and dated January 20, 2016. Prepared by DNR, approved by DNR.

(c) ***Establishment of districts.*** The regional floodplain areas are divided into four (4) districts as follows:

- (1) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
- (2) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.
- (3) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.
- (4) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(d) ***Locating floodplain boundaries.*** Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (1) or (2) below. If a significant difference exists,

## ZONING

the map shall be amended according to Division 8. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to §23-293(c) and the criteria in (1) and (2) below.

- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (2) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection, field topographic survey, and any information provided by the Department.

**Note:** Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to §23-305(f).

(e) **Removal of lands from floodplain.** Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Division. 8.

**Note:** This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

(f) **Compliance.** Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

(g) **Municipalities and state agencies regulated.** Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if §13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when §30.2022, Stats., applies.

(h) **Abrogation and greater restrictions.**

- (1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under §62.23, Stats. which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (2) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(i) **Interpretation.** In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

(j) **Warning and disclaimer of liability.** The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this ordinance create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(k) **Severability.** Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(l) **Annexed areas for cities and villages.** The Calumet, Outagamie and Winnebago Counties floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis.

APPLETON CODE

Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

(m) **General development standards.** The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a floodplain area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

(Ord 54-06, §1, 3-21-06; Ord 20-09, §1, 1-13-09; Ord 107-10; §1, 7-13-10; Ord 34-12, §1, 4-18-12; Ord 78-13, §1, 9-10-13; Ord 12-14, §1, 4-8-14; Ord 52-15, §1, 6-9-15; Ord 103-15, §1, 12-8-15)

**Secs. 23-207 – 23-220. Reserved.**

## ZONING

### 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