

Chapter 4

Buildings

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ARTICLE I. IN GENERAL

Sec. 4-1. Maintenance of buildings.

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

(Code 1965, §14.10)

Sec. 4-2. Alterations and repairs.

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

(Code 1965, §14.11)

Sec. 4-3. Building numbering.

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

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

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

(d) Commercial buildings situated in a manner that may create confusion for emergency personnel responding to the rear side of such building shall also post their business address on their back doors. This section shall apply to commercial buildings including, but not limited to, multiple tenant strip malls, buildings serviced with alleyways such as downtown areas and single buildings with multiple tenants with individual rear doors for each tenant. This section shall not apply to stand alone commercial buildings occupied by a single tenant.

(Code 1965, §5.02; Ord 122-93, §1, 8-18-93; Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 9-98, §1, 2-18-98, Ord 71-99, §1, 10-10-99; Ord 55-07, §1, 3-13-07; Ord 172-08, §1, 11-25-08)

Secs. 4-4 – 4-20. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 4-21. Board of Building Inspection.

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

(b) The City Attorney, Director of Community Development and Fire Chief may designate an alternate to attend in their absence. The alternate shall be counted towards determining a quorum and will be entitled to vote on items brought before the board.

(Code 1965, §1.04(12); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96, Ord 12-02, §1, 3-11-02; Ord 167-24, §1, 11-6-24)

Cross reference(s)—Board, committees, commissions, §2-51 et seq.

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

The Inspection Supervisor shall have the power, as may be necessary in the interest of public safety, health and general welfare, to promulgate rules and regulations to interpret and implement the provisions of this chapter under the supervision of the Board of Building Inspection, including issuing citations. The Inspections Division shall review and suggest changes in this chapter annually for Council action. Rules and regulations adopted under this section shall be approved by the Common Council and, when so approved, a violation thereof shall be subject to §4-24.

(Code 1965, §14.05; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 107-25, §1, 08-20-25)

Sec. 4-23. Modification of regulations.

When there are practical difficulties involved in carrying out structural or mechanical provisions of this chapter or of an approved rule, the Inspection Supervisor may vary or modify such provision upon application of the owner or his representative, provided that the spirit and intent of this chapter shall be observed and public welfare and safety shall be ensured. The application for modification and the final decision of the Inspections Supervisor shall be in writing and shall be officially recorded with the permanent application for the permit in the permanent records of the Inspections Division.

(Code 1965, §14.09; Ord 32-92, §1, 3-18-92; Ord 174-93, §1,

10-19-93; Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-24. Violations generally; penalty.

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

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

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

(d) **Abatement of violation.** The imposition of the penalty prescribed in this section shall not preclude the City Attorney from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to stop an illegal act, conduct business or use of a building or structure in or about any premises.

(Code 1965, §14.13; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 108-25, §1, 08-20-25)

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

Sec. 4-25. Stop work order.

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

(b) **Unlawful continuance of work.** Any person who

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shall continue any work in or about the building after having been served with a stop work order, except such work as he is directed to perform to remove a violation or unsafe condition, shall be subject to a penalty as provided in §4-24.

(Code 1965, §14.12; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

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

Sec. 4-26. Appeals.

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

(Code 1965, §14.14; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Secs. 4-27 – 4-45. Reserved.

DIVISION 2. INSPECTIONS DIVISION

Sec. 4-46. Generally.

The Inspections Division shall include the building, plumbing, electrical, heating, ventilating and erosion control inspectors.

(Code 1965, §14.01; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 176-93, §1, 10-19-93; Ord 52-96, §1, 6-5-96; Ord 118-96, §1, 12-18-96, Ord 71-99, §1, 10-10-99)

Sec. 4-47. Reserved.

Sec. 4-48. Inspections Supervisor.

The Inspections Supervisor may designate an employee as his deputy who shall exercise all the powers of the Inspections Supervisor during the temporary absence or disability

(Code 1965, §14.03; Ord 32-92, §1, 3-18; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-49. Assistants to Inspections Supervisor.

(a) **Appointment.** The Inspections Supervisor shall appoint such officers, technical assistants, inspectors and other employees as shall be necessary for the administration of this chapter.

(b) Qualifications.

- (1) **Generally.** Assistants to the Inspection Supervisor shall be chosen on the basis of merit, training and experience. They shall be appointed from a list furnished by the state or local civil service board under the rules of such board. All licensed technicians shall meet the state qualifications for their particular positions.
- (2) **Electrical inspectors.** Any person appointed to do electrical inspections shall:
 - a. Be a competent electrician and have at least six (6) years of experience as a journeyman in the practice of his trade or four (4) years of training in a recognized college of electrical engineering;

- b. Have all the qualifications of a master electrician; and
- c. Be well-versed in approved methods of electrical construction for safety of life and property, the statutes of the state relating to electrical work, the rules and regulations issued by the Industrial Commission of the State under the authority of the statutes, the National Board of Fire Underwriters and the National Safety Code of the Bureau of Standards.

(Code 1965, §14.04; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Secs. 4-50 – 4-65. Reserved.

DIVISION 3. PERMITS

Sec. 4-66. Required; exception.

(a) No person shall excavate for a structure or building; construct, enlarge, alter, remove or demolish or change the occupancy of a building from one use to another requiring greater strength, exit or sanitary provisions or change to a prohibited use; or install or alter any wiring equipment or electrical, plumbing, heating and ventilating facilities for which provision is made or the installation of which is regulated by this chapter without first filing an application with the Inspection Supervisor on the form provided in writing and obtaining the required permit therefore, except that ordinary repairs which do not involve any violation of this chapter shall be exempt from this provision.

(b) Ordinary repairs to structures or buildings may be made without application or notice to the Inspection Supervisor; but such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support or the removal or change of any required means of egress or rearrangement of parts of a structure affecting the exit requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electrical wiring, or mechanical or other work affecting public health or general safety.
(Code 1965, §14.06(1); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 140-24, §1, 11-6-24)

Sec. 4-67. Application generally.

(a) **Submission.** Application for a permit under this division shall be made by the owner or lessee of the building or structure or agent of either or by the licensed engineer or architect employed in connection with the proposed work. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

(b) **Description of work.** The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building, and such additional information as may be required by the Inspection Supervisor.

(c) **Plans and specifications.** The application for the permit shall be accompanied by not less than three (3) copies of specifications, if any, and of plans drawn to scale on paper not less than twelve (12) inches by eighteen (18) inches in size with sufficient clarity and detailed dimensions to show the nature and character of the work to be performed. Plans shall include floor plans and a front elevation. In addition, the Fire Department shall be sent two (2) copies of plans for

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any building subject to the Wisconsin Administrative Code, SPS chapters 350 through 364, 366 and 369.

(d) **Plot diagram.** There shall also be filed a plot plan showing to scale the size and location of all the new construction and all existing structures on the site and distances from lot lines and the established street grades. The plot plan shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the plot plan shall show all construction to be demolished and the location and size of all existing buildings and construction that are to remain on the site or plot.

(Code 1965, §14.06(2)-(5); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 85-97, §1, 10-15-97; Ord 25-12, §1, 3-7-12)

Sec. 4-68. Amendments to application.

Subject to the limitations of §4-70, major changes to a plan, application or other records accompanying the plan or application may be filed at any time before completion of the work for which the permit is sought or issued under this division. Such major changes shall be deemed part of the original application and shall be filed therewith.

(Code 1965, §14.06(6))

Sec. 4-69. Time limitation on application for permit and completion of work.

(a) An application for a permit pursuant to this division for any proposed work shall be deemed to have been abandoned six (6) months after the date of filing unless such application has been diligently prosecuted or a permit has been issued; except that, for reasonable cause, the Inspection Supervisor may grant one (1) or more extensions of time for additional periods not exceeding ninety (90) days each.

(b) Permits shall be valid for a maximum period of two (2) years from the date of issuance. All work for which the permit was issued shall be completed in its entirety and brought into compliance within that period of time. A time extension may be granted by the Inspections Supervisor or designee if circumstances warrant. At such time a permit has expired, and if work is not completed, it shall be the responsibility of the permittee to renew such permit by completing the required form and submitting the appropriate fee.

(c) Failure to obtain or renew a required permit shall result in assessment of a permit fee that is triple the otherwise prescribed permit fee. Payment of any fee mentioned in this subsection shall in no way relieve any person of other penalties that may also be imposed.

(Code 1965, §14.06(7); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 74-06, §1, 5-23-06)

Sec. 4-70. Action on application.

The Inspection Supervisor shall examine or cause to be examined all applications for permits under this division and amendments thereto within forty-eight (48) hours time after filing. If the application or the plans do not conform to the requirements of all pertinent laws, he shall reject such application in writing stating the reasons therefore. If he is satisfied that the proposed work conforms to the requirements of this chapter and all laws and ordinances applicable thereto, he shall issue a permit therefore as soon as practicable. Street grades, sidewalk grades and benchmarks are available in the Engineering Division of the Department of Public Works.

(Code 1965, §14.06(8); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-71. Approval of work in part.

The Inspection Supervisor may issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building have been submitted, provided adequate information and detailed statements have been filed complying with all the pertinent requirements of this chapter. The holder of such permit for the foundations or other part of a building or structure shall proceed at his own risk with the building operation and without assurance that a permit for the entire structure will be granted.

(Code 1965, §14.06(13); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-72. Payment of fees.

No permit shall be issued under this division until the fees required in this chapter have been paid.

(Code 1965, §14.06(15))

Sec. 4-73. Signing of permit; approved plans.

(a) The Inspection Supervisor shall sign every permit issued under this division and the permit shall also be signed by those assistants in charge of specific inspections in any building.

(b) The Inspection Supervisor shall stamp or endorse in writing both sets of corrected plans "approved". One (1) set of such approved plans shall be retained by him and the other set shall be kept at the building site, open to inspection of the Inspection Supervisor or his authorized representative at all reasonable times.

(Code 1965, §14.06(11), (12); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-74. Posting.

A true copy of the permit required under this division shall be kept on the site of operations open to public

inspection during the entire time of prosecution of the work and until the completion of the work.
(Code 1965, §14.06(14))

Sec. 4-75. Suspension or abandonment of work.

Any permit issued pursuant to this division shall be void if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing the work.
(Code 1965, §14.06(9))

Sec. 4-76. Compliance.

(a) The permit issued under this division shall be authority to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of this chapter, except as specifically stipulated by modification or legally granted variation as described in the application.

(b) All work shall conform to the approved application and plans for which the permit has been issued and any approved amendments thereto.

(c) All new work shall be located strictly in accordance with the approved plot plan.

(d) No lot or plot shall be changed, increased or diminished in area from that shown on the official plot plan, unless a revised diagram showing such changes, accompanied by the necessary affidavit of the owner or applicant, has been filed and approved; except that such revised plot plan will not be required if the change is caused by reason of an official street opening, street widening or other public improvement.
(Code 1965, §14.06(16)-(19))

Sec. 4-77. Making false application.

The Inspection Supervisor may revoke a permit or approval issued under the provisions of this division in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.
(Code 1965, §14.06(20); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-78. Eligibility for permit when order pending against applicant.

No building, plumbing, sewer, electrical, heating and ventilating or sign permit shall be granted to any applicant against whom a written stop work, correction, repair or change order issued by the division is pending for thirty (30) days or more. Upon acceptance by the Inspections Division of the corrective work being accomplished, the applicant will again be eligible for further permits. Any stop work, correction, repair or change order issued shall be based on noncompliance with an applicable state or local code

requirement. Where the applicant against whom an order has been issued filed an application with the Board of Appeals or the Board of Building Inspection for a variance of the code requirements upon which the order is based, the order shall be held in abeyance until a decision has been reached by the respective board.

(Code 1965, §14.06(21); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Secs. 4-79 – 4-95. Reserved.

BUILDINGS AND BUILDING REGULATIONS

DIVISION 4. INSPECTIONS

Sec. 4-96. Generally.

Before issuing a permit under this article, the Inspection Supervisor shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a permit to construct, enlarge, alter, repair, remove, demolish or change the use thereof. The Supervisor shall conduct such inspections from time to time during and upon completion of the work for which he has issued a permit and he shall maintain a record of all such examinations and inspections and of all violations of this chapter.

(Code 1965, §14.07(1); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-97. Time of inspections; notification of department; early occupancy; penalties.

(a) Footings, foundations and slabs shall be inspected before concrete is poured and excavations are backfilled.

(b) Framing construction, rough carpentry, plumbing, electrical, HVAC and the like shall be inspected after mechanical work is roughed in and before insulation, lathing, plastering or any other type of concealment of any areas requiring inspection.

(c) Permit holders shall schedule all necessary inspections as soon as practicable after work is completed. Such inspections shall be made by the end of the second business day following the day of notification, excluding Saturdays, Sundays and legal holidays. Each construction phase set forth herein shall be inspected and approved prior to being concealed.

(d) The space under construction, as noted on the permit, shall not be occupied until the area has been inspected and approved for occupancy unless early occupancy is authorized by the Inspections Supervisor or designee. In the event that early occupancy is authorized, it shall not relieve the permit holder from timely completing the permitted work in accordance with applicable codes.

(e) Violations of this section may be subject to penalties under §4-24.

(Code 1965, §14.07(2); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 75-06, §1, 5-23-06; Ord 55-09, §1, 4-28-09; Ord 31-12, §1, 4-4-12))

Sec. 4-98. Final inspection.

(a) A final inspection shall be obtained by the permit holder as soon as practicable after completion of the permitted work, and no more than thirty (30) days after such completion. This inspection shall be conducted before the issuance of a Certificate of Use and/or Occupancy and shall note all violations of the approved plans and notify the permit

holder of the discrepancies. Any discrepancies shall be corrected in a timely manner as established by the Inspections Supervisor or designee. Upon approval, the Inspections Division shall post a *Certificate of Inspection* on the job. After such certificate has been posted, no structural part of the building shall be changed.

(b) Failure to obtain a final inspection as soon as practicable after completion of work, and prior to occupancy when applicable, so that the permit may be closed, may be considered a violation of this section and subject to penalties under §4-24 and may also result in future permits not being issued to the applicant until such time as the permit for the otherwise completed work is closed.

(Code 1965, §14.07(3); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 76-06, §1, 5-23-06)

Sec. 4-99. Right of entry.

In the discharge of his duties, the Inspection Supervisor or his authorized representative shall have the authority to enter at any reasonable hour any building, structure or premises in the City to enforce the provisions of this chapter. The Inspection Supervisor or his duly authorized representative shall have the authority to enter, during reasonable hours, those buildings of public use and occupancy to inspect for any violation of this chapter for the purpose of public protection.

(Code 1965, §14.07(4); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Secs. 4-100 – 4-115. Reserved.

**DIVISION 5. CERTIFICATE OF USE
AND OCCUPANCY**

Sec. 4-116. Required.

(a) *New buildings.* No building erected shall be used or occupied in whole or in part until the Certificate of Use and Occupancy has been issued by the Inspection Supervisor.

(b) *Alteration of building.* No building enlarged, extended or altered to change from one use to another, in whole or in part, and no building altered for which a certificate of use in occupancy has not been issued, shall be occupied or used until the certificate has been issued by the Inspection Supervisor certifying that the work has been completed in accordance with the provisions of that approved permit; except that any use or occupancy which was not discontinued during the work of alteration shall be discontinued within thirty (30) days after the completion of the alteration unless the required certificate is secured from the Inspection Supervisor.

(Code 1965, §14.08(1), (2); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-117. Issuance – generally.

When a building or structure is entitled thereto, the Inspection Supervisor shall issue a Certificate of Use and Occupancy within a reasonable length of time after written application.

(Code 1965, §14.08(6); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-118. Same – existing buildings.

Upon written request from the owner of an existing building, the Inspection Supervisor shall issue a Certificate of Use and Occupancy, provided there are no violations of law or orders of the Inspections Supervisor pending and it is established after inspection and investigation that the alleged use of the building has heretofore existed. Nothing in this chapter shall require the removal, alteration or abandonment of or prevent the continuance of the use and occupancy of a lawfully existing building, unless such use is deemed to endanger public safety and welfare.

(Code 1965, §14.08(3); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-119. Changes in use and occupancy.

No change of use shall be made unless all the applicable provisions of this chapter are complied with. No change from one prohibited use to any other prohibited use shall be permitted.

(Code 1965, §14.08(4))

Sec. 4-120. Temporary certificate of occupancy.

Upon the request of a holder of a permit, the Inspection Supervisor may issue a temporary certificate of occupancy for a building or structure or part thereof before the entire work covered by the permit has been completed, provided such portion may be occupied safely prior to full completion of the building without endangering life or public welfare. (Code 1965, §14.08(5); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Secs. 4-121 – 4-135. Reserved.

ARTICLE III. BUILDINGS

DIVISION 1. GENERALLY

Sec. 4-136. State building code, existing buildings regulations adopted.

Wisconsin Administrative Code, SPS Chapters 330 – 366, are adopted by reference and made part of this article with the same force and effect as through set out in full in this article.

(Code 1965, §15.01; Ord 85-97, §1, 10-15-97; Ord 38-09, §1, 3-10-09; Ord 25-12, §1, 3-7-12)

Sec. 4-137. Fire limits designated.

All property located in the CBD central business district, the M-1 industrial park district and the M-2 general industrial district shall be considered as being within the fire limits of the City.

(Code 1965, §4.10(1); Ord 85-97, §1, 10-15-97; Ord 39-09, §1, 3-10-09)

Cross reference(s)—Fire prevention and protection, ch. 6.

Sec. 4-138. Construction in fire limits – certain remodeling, repairs prohibited.

(a) No wood frame unprotected building within the fire limits of the City shall be remodeled to the extent of fifty percent (50%) of the fair market value during the life of the building.

(b) No wood frame unprotected building within the fire limits which is damaged to the extent of fifty percent (50%) of the fair market value shall be repaired or rebuilt. The amount or extent of damage shall be determined by the Board of Building Inspection. The decision of the board shall be communicated to the building owner by the Inspections Division. If, within ten (10) days of the notification, the owner does not raze and remove the building condemned, it shall be considered a nuisance and the City shall proceed to have it removed and the cost thereof shall be collected by the Department of Finance in the same manner as the taxes of the City.

(Code 1965, §4.10(2); Ord 76-93, §1, 4-21-93; Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Cross reference(s)—Fire prevention and protection, ch. 6.

Sec. 4-139. Same – construction standards generally.

(a) ***Restrictions.***

- (1) All buildings located in the fire limits of the City as described in §4-137 shall be constructed as set forth in the International Building Code (IBC) 602.2 – 602.4, as adopted by the Wisconsin Administrative Code. All buildings

of less than two-hour fire-resistive construction shall have ten (10) feet of clearance to the side and rear property lines and any other frame-type building. Pole buildings shall not be permitted in the fire limits.

- (2) No permits will be issued for any remodeling of any frame building or part of frame building within the fire limits unless such remodeling will be in conformity with the requirements for new buildings within the fire limits. No frame building within the fire limits shall be raised or removed to any other place within the fire limits, nor shall any frame building be moved into fire limits; nor shall any frame building within such limits which may be damaged to the extent of fifty percent (50%) of the market value thereof be repaired or rebuilt. No such buildings where the damages are less than fifty percent (50%) of the market value shall be so repaired as to be raised higher than the highest point left standing after such damage has occurred or so as to occupy a greater space than before the damage thereto.
- (3) No frame building or structure shall be erected within the fire limits except one- (1-) story frame buildings for the use of builders, stands, platforms, booths and tents, erected under temporary permits. Such structures shall be removed as soon as they have ceased to serve the original purpose for which they were permitted.

(b) **Waiver of requirements.** The Board of Building Inspection may in its discretion waive strict enforcement of the provisions of this section and may prescribe more liberal conditions for the erection, repair or enlargement of buildings within the fire limits.

(Code 1965, §§15.11, 15.12; Ord 118-96, §1, 12-18-96; Ord 85-97, §1, 10-15-97, Ord 36-99, §1, 6-6-99, Ord 2-05, §1, 1-11-05; Ord 40-09, §1, 3-10-09; Ord 150-11, §1, 6-7-11)

Cross reference(s)--Fire prevention and protection, ch. 6.

Sec. 4-140. Uniform Dwelling Code.

(a) **Adoption of State code.** Wisconsin Administrative Code, SPS chapters 320 through 325, Uniform Dwelling Code, as adopted and effective December 1, 1978, and all amendments thereto, is adopted and incorporated in this article by reference.

(b) **Enforcement.** The Inspection Supervisor and his delegated representatives are hereby authorized and directed to administer and enforce all of the provisions of the Uniform Dwelling Code.

(c) **Applicability.** The Uniform Dwelling Code adopted

in this section shall apply to all construction of one- (1-) and two- (2-) family buildings, and shall apply to all such existing buildings, but only to the extent such existing buildings are remodeled, reconstructed or added to.

(Code 1965, §15.06; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-141. Garages and accessory buildings.

(a) **Unattached.** Unattached one- or 2-family accessory buildings shall be constructed on concrete slabs and shall conform to UDC and American Concrete Institute (ACI) standards. No concrete slab shall be required for accessory buildings where the structure does not exceed one hundred (100) square feet in area and the building is securely anchored. Accessory buildings less than fifty (50) square feet are exempt from permits, however must comply with all zoning ordinance standards. Unattached accessory buildings shall maintain a fire separation distance that meets UDC standards. All one- or 2-family unattached buildings with overhead doors shall have at least one exit door that is a minimum of 32" in width. The overhead door shall not be used as an exit door. Accessory buildings that are 150 square feet or larger are considered a garage for the purposes of this section.

(b) **Wall brace plans.** Wall brace plans are required for accessory buildings greater in width or length than twelve (12) feet. Wall brace plans must meet UDC standards. Exterior walls and roofs shall meet UDC standards for design, structural requirements and covering. Stairs or stairways, handrails, guardrails or elevated areas inside and outside of the accessory building shall meet UDC standards.

(c) **Attached.** Attached garages, carports and shelters that are connected to a residence shall have footings and foundations to the established frost line. Attached garages with exterior siding shall be framed to meet all general requirements. Floor drains in garages shall not connect to the foundation drain tile or a clear water sump. Attached carports and unheated shelters that are designed to compensate for movement or flexing and meet all other general requirements may be erected or installed on concrete slabs without frost walls and footings, provided that detailed drawings of design and method of construction are submitted with the permit application.

(d) **Construction time frame.** Unattached garages or accessory buildings must be completed within one (1) year from the date that the building permit is issued. Failure to complete the construction of garages and accessory buildings will require a new permit. The permit fee for additional permits will be double the original permit fee.

(e) **Garage door required.** All attached and detached garages, excluding carports, must have an operating garage door.

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(f) *Prohibited accessory buildings.*

- (1) Metal shipping containers are prohibited in residential zoning, except as permitted in Sec. 23-54(i)(3), Temporary uses and structures.

(Ord 10-98, §1, 2-18-98; Ord 174-08, §1, 12-9-08; Ord 9-19, §1, 03-03-19; Ord 35-21, §1, 8-18-21)

Sec. 4-142. Boarding of vacant buildings.

(a) *Vacant Structures.* Owners shall have the responsibility for maintaining all vacant dwelling units, structures, principal buildings and accessory buildings in a locked or closed condition so that they cannot be entered without an unlawful break-in. The Inspections Supervisor may, to assure compliance with this section, order an owner to board a structure.

(b) Owners prior to boarding of a structure under order of the Inspections Supervisor shall apply for a permit and pay a fee of thirty dollars (\$30.00).

(c) Boarding of a structure shall be required for all doors and windows on ground level and those doors and windows accessible to grade by stairs or permanently fixed ladders or within ten (10) feet of grade.

(d) Boards shall be a minimum of ½ inch thick exterior grade plywood cut to fit door and window openings, and screws at least 1½ inches in length shall be used to fasten boards to a structure.

(e) All doors boarded at grade level shall be locked and maintained per State of Wisconsin and City of Appleton Building and Fire Codes. The use of padlocks to secure entry doors is strictly prohibited.

(f) Boards shall be painted to match the trim or siding color of the structure.

(g) Screening or alternate methods of boarding may be permitted when approved by the Inspection Supervisor.

(h) The owner of a structure boarded under subd. (a) shall be required, upon notification, to provide entry to the structure to the Inspections Supervisor or Fire Chief at least once every six (6) months, for inspection purposes, or at anytime when the structure has been unlawfully entered.

(i) The owner of a boarded structure shall notify the Inspections Supervisor in writing no later than ten (10) days after the sale of the structure or the unboarding of the property.

(j) If, after a reasonable notice, the owner fails to board the structure, the Inspections Supervisor may request the Department of Public Works, either by City personnel or by contract, to correct the situation and charge the cost thereof

upon the tax rolls of the property.

(Ord 71-99, §1, 10-10-99, Ord 62-07, §1, 3-27-07)

Sec. 4-143. Maintenance generally.

(a) All commercial structures and buildings, or portions thereof, shall be maintained to comply with the following requirements:

- (1) Every foundation, exterior wall and roof and gutter system shall be reasonably weather tight, waterproof and rodent-proof and shall be kept in a good state of maintenance and repair.
- (2) Every interior partition wall, floor and ceiling shall be capable of affording privacy, kept in a reasonably good state of repair and maintained so as to permit it to be kept in a clean and sanitary condition.
- (3) All rainwater shall be so drained and conveyed from every roof so as not to cause dampness in the walls, ceilings or floors of any habitable room, or any bathroom, or of any toilet room.
- (4) Every inside and outside stairway, every porch and every appurtenance thereto shall be constructed in accordance with applicable building codes; and shall be kept in sound condition and a reasonably good state of maintenance and repair.
- (5) Every supplied plumbing fixture and water or waste pipe shall be properly installed in accordance with the Wisconsin Plumbing Code and shall be maintained in good, sanitary working condition.
- (6) Every chimney and every supplied smoke pipe shall be adequately supported, reasonably clean and maintained in a reasonably good state of repair.
- (7) Every toilet room floor surface and bathroom floor surface shall be maintained so as to be impervious to water and so as to permit such floors to be kept in a clean and sanitary condition.
- (8) Every supply facility, piece of equipment, or utility which is required under this article shall be so constructed or installed that it will function properly and shall be maintained in reasonably good working condition.
- (9) Every parking lot, driveway and sidewalk shall be kept in good state of repair and shall be maintained in conformance with the approved

site plan when applicable. Handicap accessible parking stalls shall be provided in accordance with State building code at the time maintenance and repair work is done.

(Ord 17-14, §1, 5-13-14)

Secs. 4-144 – 4-160. Reserved.

DIVISION 2. PERMITS

Sec. 4-161. Permit fees.

(a) **Generally.** Before a permit is issued to a contractor, the owner or his agent for work described in this section, a fee shall be paid to the Director of Finance as follows:

- (1) **One- (1-) and two- (2-) family dwellings.** The amount of the permit fee for one- (1-) and two- (2-) family dwellings shall be on file in the office of the City Clerk.
- (2) **Multifamily dwellings.** The amount of the permit fee for multi-family apartment dwellings shall be on file in the office of the City Clerk.
- (3) **Offices and mercantile buildings.** The amount of the permit fee for offices and mercantile buildings, including public occupancies such as garages, stores, taverns, theaters, churches, schools, restaurants, and the like, shall be on file in the office of the City Clerk.
- (4) **Factories; warehouses.** The amount of the permit fee for factory and warehouse buildings shall be on file in the office of the City Clerk.
- (5) **Alterations.** The amount of the permit fee for alterations to all existing buildings and structures, including installation of major equipment not covered under the mechanical code, and re-siding of residential structures and the like, shall be on file in the office of the City Clerk.
- (6) **Demolition.** The amount of the permit fee for wrecking and razing of buildings and structures shall be on file in the office of the City Clerk.
- (7) **Moving of buildings.** The amount of the permit fee for moving of buildings and structures shall be on file in the office of the City Clerk.
- (8) **Swimming pools.** The amount of the permit fee for in-ground and aboveground swimming pools shall be on file in the office of the City Clerk.
- (9) **Fences.** The amount of the permit fee for residential, commercial and industrial fences shall be on file in the office of the City Clerk.
- (10) **Erosion control.** The amount of an erosion control permit fee for disturbance of less than one (1) acre for projects that are regulated by the Wisconsin Department of Safety and Professional Services under s. SPS 321.125,

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Wis. Admin. Code, shall be on file in the office of the City Clerk.

(b) ***Penalty for commencing work without permit.*** The fee for failure to obtain a permit is triple the permit fee when a permit is obtained. Payment of any fee shall not relieve any person of the penalties that may be imposed for violation of this chapter.

(Code 1965, §15.02(1)(a)-(l); Ord 75-91, §1, 8-7-91; Ord 4-93, §1, 1-6-93; Ord 69-97, §1, 10-1-97; Ord 41-09, §1, 3-10-09; Ord 48-25, §1, 05-21-25)

Sec. 4-162. Miscellaneous fees.

(a) The amount of the one- (1-) and two- (2-) family residential building plan examination fee shall be on file in the office of the City Clerk.

(b) The fees for State Department of Safety and Professional Standards permits (uniform building permit seal) shall be the fees contained in Wisconsin Administrative Code, SPS §302.34, plus a five-dollar (\$5.00) handling charge.

(c) A callback inspection charge shall be on file in the office of the City Clerk.

(Code 1965, §15.02(1)(m)-(o); Ord 69-97, §1, 10-1-97; Ord 29-25, §1, 04-02-25)

Sec. 4-163. Submission of plans to State Department of Safety and Professional Services.

In accordance with an agreement executed by and between the City and the State Department of Safety and Professional Services, and with W.S.A. §101.12, the Inspection Supervisor may examine essential drawings, calculations and specifications for new projects up to 50,000 cubic feet and remodels up to 100,000 cubic feet. The division will accept the examinations at no cost for projects that are less than 1,000 square feet and with an estimated cost of less than \$3,000. The Inspection Supervisor shall collect fees for examination of the plans for deposit in the City treasury. The fee collected by the Inspection Supervisor shall be the same fee that would apply if the examination were made by the department and the fee schedule set forth in Wisconsin Administrative Code, SPS §302.31 is adopted and incorporated as part of this section by reference.

(a) All building plans, essential drawings, calculations and specifications for commercial buildings larger than specified in §4-163 shall be submitted to the State of Wisconsin Department of Safety and Professional Services. Submission to the Department of Safety and Professional Services will include all new commercial buildings, alterations to existing commercial buildings and additions to existing commercial buildings. Building plans for one- (1-) and two- (2-) family dwellings are not required to be submitted to the State of Wisconsin and can be submitted

directly to the Inspections Division.

(b) Before a building permit will be issued by the Inspections Division for any commercial project, two (2) copies of the State of Wisconsin approved building plans, essential drawings, calculations and specifications for that project shall be submitted to the Inspections Division along with the completed permit application. The Inspections Division, along with the Appleton Fire Department will have seven (7) business days to complete the project review. When final approval from the Project Review Team is given, only then will the building permit be issued to the building owner or their legal representative.

(Code 1965, §15.03; Ord 32-92, §1, 3-18-92; Ord 107-92, §1, 10-7-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 85-97, §1, 10-15-97; Ord 71-99, §1, 10-10-99; Ord 42-09, §1, 3-10-09; Ord 25-12, §1, 3-7-12; Ord 72-12, §1, 1-1-13)

Sec. 4-164. Restrictions on permit issuance – location of lot; platting.

(a) No building permit shall be issued unless the property on which the house is proposed to be built abuts a street that has been dedicated for street purposes.

(b) A scaled site plan shall be submitted with the application for a building permit showing at a minimum all existing and proposed buildings and property lines. In areas where drainage plans have been approved, the site plan shall also show elevations at both property and new building corners, direction of the drainage, location of any primary swales, lot line drainage, plus other sufficient details in order to review conformance to the subdivision drainage plan.

(c) In any new subdivision, prior to the issuance of any building permits, the developer shall submit two (2) copies of the subdivision drainage plan to the Inspections Division, certifying that the grades of primary swales have been adjusted to final grades. An exception is made to allow building permits to be issued for those lots in developments awaiting swale grading due to utility installation after October 1, in any year. Said grading must be completed by the following May 31 and certification received by the Inspection Supervisor by the following June 6.

(d) In areas with approved drainage plans, the Division of Inspections shall not issue further permits to builders or property owners who are in noncompliance with the drainage and grading requirements of the City on any lot.

(Code 1965, §15.04; Ord 98-92, §1, 9-2-92); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-165. Same – requirements for utilities and street improvements.

No building permit shall be issued for the construction of any residential building until sewer, water, grading and

graveling are installed in the streets necessary to service the property for which the permit is required. No building permit shall be issued for the construction of any building other than residential until contracts have been let for the installation of sewer, water, grading and graveling in the streets necessary to service the property for which the permit is requested. Public buildings are exempt from this requirement. No person shall occupy any building until sewer, water, grading and graveling are installed in the streets necessary to service the property, and a certificate of occupancy shall not be issued until such utilities are available to service the property.
(Code 1965, §15.05; Ord 10-91, §1, 2-6-91)

Secs. 4-166 – 4-180. Reserved.

DIVISION 3. UNSAFE BUILDINGS*

Sec. 4-181. Right of condemnation.

(a) All buildings or structures that are or become unsafe, unsanitary or deficient in adequate exit facilities, which constitute a fire hazard or are otherwise dangerous to human life or the public welfare, or which are detrimental to public health, safety and welfare by reason of illegal or improper use, occupancy or maintenance, shall be deemed unsafe buildings or structures. All unsafe buildings shall be taken down and removed or made safe and secure as the Inspection Supervisor may deem necessary and as provided in this division. A vacant building, unguarded or open at a door or window, shall be deemed a fire hazard and unsafe within the meaning of this section.

(b) State Statute §66.0413 Razing Buildings is adopted and incorporated into this code by reference.
(Code 1965, §15.09(1); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 26-09, §1, 2-10-09)

Sec. 4-182. Examination and record when building reported as unsafe.

The Inspection Supervisor shall examine every building or structure reported as dangerous, unsafe structurally or constituting a fire hazard, and he shall cause a report to be filed in a docket of unsafe structures and premises stating the use of the building and the nature and estimated amount of damages, if any, caused by collapse or failure.
(Code 1965, §15.09(2); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-183. Notice of unsafe conditions.

(a) *Contents; time limits.*

- (1) If an unsafe condition is found in a building or structure, the Inspection Supervisor shall serve on the owner, agent or person in control of the building or structure a written notice describing the building or structure deemed unsafe and specifying the required repairs or improvements to be made to render the building or structure safe and secure, or requiring the unsafe building or structure or portion thereof to be demolished within a stipulated time. Such notice shall require the person thus notified to declare within the specified time to the Inspection Supervisor his acceptance or rejection of the terms of the order.
- (2) Where a building or structure has been damaged by fire, the owner has thirty (30) days from the date the Fire Department investigation is completed to begin cleanup work.

- (3) Repair work or demolition work on the damaged building or structure shall be started within sixty (60) days of the date the Fire Department investigation is completed.

(b) **Service by mail or posting.** An order shall be served on the owner of record of the building that is subject to the order or on the owner's agent if the agent is in charge of the building in the same manner as a summons is served in circuit court. If the owner and the owner's agent cannot be found or if the owner is deceased and an estate has not been opened, the order may be served by posting it on the main entrance of the building and by publishing it as a class 1 notice under ch. 985 before the time limited in the order begins to run. The time limited in the order begins to run from the date of service on the owner or the owner's agent or, if the owner and agent cannot be found, from the date that the order was posted on the building. Such procedure shall be deemed the equivalent of personal service.

(Code 1965, §15.09(3), (5); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 43-09, §1, 33-10-09)

Cross reference(s)--Housing standards, §4-231 et seq.; vacation of certain buildings, §6-7; fire prevention and protection, Ch. 6; nuisances, Ch. 12; abandoned property, §12-101 et seq.

State law reference(s)--Unsafe, unsanitary, dilapidated buildings, W.S.A. §§66.0413, 823.21 et seq.

Sec. 4-184. Restoration of building.

A building or structure condemned by the Inspection Supervisor may be restored to safe condition. If the damage or cost of reconstruction or restoration is in excess of fifty percent (50%) of its fair market value, exclusive of foundations, such building shall be made to comply in all respects with the requirements for materials and methods of construction of new buildings.

(Code 1965, §15.09(4); Ord 32-92, §1, 3-18; Ord 174, 93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-185. Failure to comply with order.

Upon refusal or neglect of the person served with an unsafe notice to comply with the requirements of the order to abate the unsafe condition, the City Attorney shall be advised of all the facts and he shall institute the appropriate action to compel compliance.

(Code 1965, §15.09(6))

Sec. 4-186. Buildings, structures, dwelling unit, equipment which are unsafe or unfit for human habitation.

(a) **Inspection.** The Supervisor of Inspections may inspect any building, structure, dwelling unit or equipment thereon, which is reported or found to be damaged, dangerous, unsafe or unfit for human habitation.

(b) **Order to discontinue occupancy or use.** The Supervisor of Inspections may issue an order to the owner of any building, structure, dwelling unit or equipment thereon, or on the person occupying or using any such building, structure, dwelling unit or equipment, to discontinue such occupancy or use if the building, structure, dwelling unit or equipment is, in the judgment of the Inspections Supervisor, in an unsafe condition or unfit for human habitation per Municipal Code §4-235 and §4-236. An order to discontinue occupancy or use shall identify the code violation that causes the building, structure, dwelling unit or equipment to be unsafe or unfit for human habitation. If the building, structure, dwelling unit or equipment can be made safe or fit for human habitation by repairs, the order shall specify a time frame to make the necessary repairs.

(c) When, in the opinion of the Supervisor of Inspections, there is actual and immediate danger of failure or collapse of a building or structure or any part thereof which would endanger life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the building, the Supervisor of Inspections may order and require the occupants to vacate the building or structure forthwith.

(d) **Closing of unsafe or unfit buildings.** If the owner or occupant of a building, structure, dwelling unit or equipment thereof, which the Inspections Supervisor finds to be unsafe or unfit for human habitation per Municipal Code sections 4-235 and 4-236, fails or refuses to discontinue the occupancy or use of such building, structure, dwelling unit or equipment within the time prescribed by the Inspections Supervisor, the Inspections Supervisor shall notify the City Attorney and the City Attorney shall be advised of all the facts and he shall institute the appropriate action to compel compliance.

(e) **Placarding of unfit/unsafe buildings.** The Supervisor of Inspections shall cause to be posted at each entrance to such building that is deemed unfit or unsafe, a notice reading as follows: "This building is unsafe and its use or occupancy has been prohibited by the Supervisor of Inspections."

(f) Orders and placards shall remain effective until the required repairs or alterations have been made or demolition and removal have been completed. No person may remove a posted order or placard, nor occupy, use or enter a posted or placarded building, structure or dwelling unit, except for the purpose of making the required repairs or alterations, without written permission from the Supervisor of Inspections.

(Code 1965, §15.10(1); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96, Ord 71-99, §1, 10-10-99)

Sec. 4-187. Emergency repairs.

(a) When, in the opinion of the Inspection Supervisor, there is actual and immediate danger of collapse or failure of a building or structure or any part thereof which would endanger life, he shall cause the necessary work to be done to render such building or structure or part thereof temporarily safe, whether or not the legal procedure described in this division has been instituted.

(b) When necessary for the public safety, the Inspection Supervisor shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(c) Costs incurred in the performance of emergency work shall be paid from the City treasury on certificate of the Inspection Supervisor, and the City Attorney shall institute appropriate action against the owner of the premises where the unsafe building or structure was located for the recovery of such costs.

(Code 1965, §15.10(2)-(4); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-188. Demolition of buildings.

(a) **Permits.** Permits shall be obtained prior to the demolition of any building or structure in accordance with §4-66(a) and §4-161(a)(6). If the demolition will result in two thousand (2,000) square feet of soil disturbance or where more than two hundred (200) cubic yards of fill (soil or gravel) will be placed, an erosion and sediment control permit shall be obtained in accordance to §24-10(a)(1). No permits shall be issued without the following conditions being met:

- (1) The applicant shall file with the City Clerk proof of workers compensation, automobile and general liability insurance equal to or greater than that required by the City and approved by the City's Risk Manager, and it shall be kept in full force and effect for one (1) year after the work has been completed.
- (2) The applicant shall file with the Department of Public Works a permit bond in the penal sum of five thousand dollars (\$5,000.00) executed by the applicant as principal and a surety company authorized to do business in the State of Wisconsin, running in favor of the City so that in the event the City should suffer any loss or damage by any negligence, malfeasance or misfeasance in the conduct of the work performed under this section shall have the right to institute an action for recovery against the applicant and the surety upon such bond. The bond must further state that the applicant shall fully comply with all provisions of State law and City ordinances as applicable and that

the applicant will save and indemnify the City against any costs, expenses or damages which may in any way accrue against the City due to the work performed under this section, and will keep the City harmless against all liabilities, judgments, costs and expenses as a consequence of the work.

(b) **Utility disconnections.** Prior to the issuance of a demolition permit, the owner or agent shall notify all utilities having service connections within the building, including but not limited to: water, electric, gas, sewer and other connections. A permit to demolish or to remove a building shall not be issued until all equipment, such as meters or regulators, have been removed, and service connections are sealed and plugged correctly. No permit to demolish or remove any building shall be issued without written proof of service disconnection.

(c) **Sewer and water connections.** The sewer and water connections are required to be sealed before a building is demolished to protect the sewer from any sand, earth, water or other foreign materials that may enter into the sewer and/or water system in accordance with §4-272. The water connection shall be sealed at the property line or at a point determined by the water utility. The sewer connection may also be sealed at the property line if the piping is constructed of materials listed in Table 82.30-3 of the State Plumbing Code. If the sewer connection is any other material it must either be sealed at the main in the street or brought into compliance with this section by using other approved methods.

(d) **Property to be protected.** Streets, alleys, and private property shall be properly protected by erecting proper fences and scaffolds. If scaffolds are to be built on streets or alleys, they shall be properly protected with a top cover of planks, guard rails, and toe-boards to prevent debris from falling on sidewalks or streets. The top of the scaffold shall be at least eight feet (8') above the sidewalk or alley.

(e) **Property to be secured.** Properties that are to be demolished shall not be left open and unsecured. If doors and windows are removed for any reason, these openings shall be secured with boards in accordance with §4-142. If a demolition permit is obtained, a permit for boarding is not required. If the permit applicant plans to leave a building open overnight, a security plan must be approved by the Inspections Supervisor prior to the issuance of a demolition permit. The security plan shall detail how any open building or demolition site will be secured from trespassers.

(f) **Unguarded pits a nuisance.** Open excavations or pits caused by the demolition of the building are declared a public nuisance in accordance with §12-30(12) of the Appleton Municipal Code.

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(g) **Obstruction of streets.** When razing requires the obstruction of a public street, alley or sidewalk, a street occupancy permit must be obtained from the Department of Public Works before starting work on razing the building.

(h) **Completion of project.** Except for commercial properties with approved site plans, when demolition activities are completed, disturbed areas shall be graded and restored to perennial grass vegetation at a slope of no greater than 10:1 (horizontal to vertical), unless approved by the building inspector upon permit issuance. For purposes of this section, site restoration shall consist of the following:

- (1) Topsoil capable of supporting a dense cover of perennial grass shall be placed at a minimum thickness of four (4) inches over all disturbed areas.
- (2) Till and prepare a fine, but firm seedbed, reasonably free of rocks, foreign matter or soil clods over two (2) inches in size.
- (3) Uniformly seed the site in a manner consistent with typical landscaping standards, utilizing grass seed that conforms to the requirements of the Wisconsin Statutes and of the Administrative Code Chapter ATCP 20.01 regarding noxious weed seed content and labeling. Seed application rates shall be consistent with supplier recommendations.
- (4) At a minimum, mulch seeded areas with straw or hay that is substantially free of noxious weed seeds or other objectionable matter. Application shall be uniform and at a loose depth of one-half (½) inch to one and one-half (1½) inches. Mulch shall be anchored in place by use of a mulch crimper to impress the mulch into the soil or other approved methods. Where steep slopes dictate, other seed/soil stabilization methods such as erosion control mat may be required.
- (5) Re-seed areas as necessary to achieve a uniform dense cover of grass.
- (6) Commercial properties with approved site plans must proceed pursuant to those plans as soon as demolition activities are completed.

(Ord 27-09, §1, 2-10-09; Ord 99-16, §1, 12-13-16)

Secs. 4-189 – 4-205. Reserved.

DIVISION 4. MOVING OF BUILDINGS AND STRUCTURES*

Sec. 4-206. Permit required; application.

(a) No building or other structure shall be moved over the streets of the City unless a permit has been granted by the Common Council, except as provided in §4-211.

(b) Any person wishing to move a building over the streets of the City shall make application to the Director of Public Works on a form provided by the Director of Public Works. Such application shall also be signed by the owner of the property to which the building is to be moved.

(Code 1965, §15.08(1), (2))

Cross reference(s)-Street, sidewalks and other public places, ch. 16; traffic and vehicles, ch. 19.

Sec. 4-207. Issuance of permit; permit fee.

No permit shall be granted by the Common Council for the moving of buildings over the streets of the City without the following conditions being met:

- (1) The axle load shall be such that there will be no damage to the road surface as determined by the Director of Public Works.
- (2) The building shall be of such length, height and width that, in the opinion of the Director of Public Works, it will not unreasonably interfere with power lines, trees and other structures along the route to be traveled.
- (3) No building shall be moved over a bridge in the City unless it can be shown to the satisfaction of the Director of Public Works that such move will not result in undue stress on or physical damage to the bridge.
- (4) The applicant shall file with the City Clerk proof of workers compensation, automobile and general liability insurance equal to or greater than that required by the City and approved by the City's Risk Manager, which shall be kept in full force and effect for one (1) year after the building has been moved.
- (5) The applicant shall file with the Department of Public Works a permit bond in the penal sum of five thousand dollars (\$5,000) executed by the applicant as principal and a surety company authorized to do business in the State of Wisconsin, running in favor of the City so that in the event the City should suffer any loss or damage by any negligence, malfeasance or misfeasance in the conduct of the work of this section shall have the right to institute an action

for recovery against the applicant and the surety upon such bond. The bond must further state that the applicant shall fully comply with all provisions of State law and City ordinances and that the applicant will save and indemnify the City against any costs, expenses or damages which may in any way accrue against the City due to the work of this section, and will keep the City harmless against all liabilities, judgments, costs and expenses as a consequence of the work.

(6) The applicant shall pay to the Director of Finance a fee as provided in §4-161(7).

(Code 1965, §15.08(4); Ord 73-89, §1, 6-7-89; Ord 4-93, §1, 1-6-93; Ord 9-97, §1, 2-19-97; Ord 38-12, §1, 5-16-12; Ord 100-16, §1, 12-13-16; Ord 79-17, §1, 11-7-17)

Sec. 4-208. Approval of relocation in city; old buildings.

(a) No building shall be moved from one location to another location within the City without the conditions provided in this division being met.

(b) The Inspection Supervisor shall issue a building permit for the relocation of the building in compliance with all building and zoning regulations, provided that the permit has been approved by the Municipal Services Committee and the Common Council.

(c) The Inspection Supervisor shall notify the alderperson of the ward and all property owners within 100 feet of the proposed relocation of the date and time of the Municipal Services meeting where the proposed relocation will be heard.

(d) No existing building shall be moved from outside the corporate limits of the City to within the corporate limits of the City. Newly constructed factory-built homes and parts thereof may be moved from outside the City to within the City in compliance with all other provisions of this division. The permit fee for the move to the first permanent location shall be as provided in §4-161(7).

(e) No existing building shall be moved to a new location within the City unless it fully complies with or is remodeled to fully comply with all minimum requirements of the plumbing, heating and ventilating, building and housing and electrical codes for new construction.
(Code 1965, §15.08(6); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96, Ord 108-04, §1, 8-10-04; Ord 39-12, §1, 5-16-12; Ord 80-17, §1, 11-7-17)

Sec. 4-209. Route, time limits and safety requirements.

(a) Every permit issued under this division shall state all conditions to be complied with and designate the route to be taken and the limit of time for removal.

(b) The moving of the building shall be continuous during all hours of the day, and day by day, until the moving is completed, to cause the least possible obstruction to streets unless otherwise ordered by the Director of Public Works.

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

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

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

Sec. 4-210. Supervision of operation; trimming of trees.

The mover of the building to whom a permit has been granted under this division shall notify the Director of Public Works of the time when moving is to begin. The Director of Public Works may appoint an inspector to be present during the moving operation to supervise such moving. The appointment of an inspector in no way relieves the mover from any liability for damage that may be done during the moving operation. The Director of Public Works may also instruct the Forestry Division to trim the necessary trees along the route. The costs of the inspector and tree trimmers may be billed at actual cost to the mover.

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

Sec. 4-211. Small buildings; buildings to be moved out of city.

(a) Smaller buildings of one story in height and not more than fourteen (14) feet wide including cornice may be moved on a truck or trailer equipped with pneumatic tires.

(b) The permit required for moving any building from a location in the city to a location outside the city may be issued by the Engineering Division provided all conditions required for moving buildings shall be met.

(c) In the case of small buildings all conditions shall be met except §4-207(6) and the following shall apply:

(1) A police escort shall be required if a bridge is to be crossed;

(2) The fee shall be five dollars (\$5.00) per one hundred (100) square feet of the area of the building.

(Code 1965, §15.08(7); Ord 73-89, §1, 6-7-89)

Sec. 4-212. Police escort.

Whenever a permit is issued for the moving of a building, a police escort may be required. A fee of twenty dollars (\$20.00) per hour per man assigned to the escort may

be charged.

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

Secs. 4-213 – 4-230. Reserved.

ARTICLE IV. HOUSING

Sec. 4-231. Definitions.

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

Approved means approved by or in accordance with regulations under this code, regulations enforced and interpreted by the Inspection Supervisor or his designee or other regulations as indicated elsewhere in this article.

Basement means a story whose floor line is below grade at any exits and whose ceiling is not more than five (5) feet above grade at any entrance or exit.

Bath means a bathtub or shower.

Bedroom means a habitable room within the dwelling unit which is used or intended to be used primarily for the purpose of sleeping.

Cellar means basement.

Communal means used or shared by or intended to be used or shared by occupants of two (2) or more dwelling units.

Duplex means a structure with two (2) dwelling units.

Dwelling means any building or structure which is wholly or partially used or intended to be used for living or sleeping by human occupants.

Dwelling unit means a suite of habitable rooms, occupied by or intended to be occupied by not more than one (1) family as a residence and forming a single habitable unit with cooking, living, sanitary and sleeping facilities.

Extermination means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; or by poisoning, spraying, fumigating, trapping or any other approved pest extermination methods.

Family means one (1) or more individuals not necessarily related by blood, marriage, adoption, or guardianship, living together under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

Floor area. Floor area of rooms shall be measured by interior dimensions unless otherwise noted.

Garbage means animal and vegetable waste resulting from the handling, preparation, cooking or consumption of food, including spoiled food.

Habitable living area means the sum of the areas of all habitable rooms within a dwelling unit.

Habitable room means a room or enclosed floor area for living, sleeping, cooking or eating purposes, excluding bathrooms, toilet rooms, laundries, pantries, foyers, communicating corridors, closets, storage space, stairways and utility rooms for mechanical equipment for service in the building or other similar spaces not used by persons frequently or during extended periods.

Hotel, motel or motor hotel means any structure containing five (5) or more units wherein sleeping accommodations are offered for pay to transients. It does not include rooming houses.

Infestation means the presence of any insects, rodents or other pests within a dwelling or in the dwelling premises.

Kitchen means a room within a dwelling unit used for cooking or the preparation of meals.

Living room means a habitable room within a dwelling unit which is used or intended to be used primarily for general living purposes.

Multiple dwelling means any structure containing three (3) or more dwelling units or a structure containing one (1) or more dwelling units in combination with a nonresidential use.

Nondwelling structure means any structure except a dwelling.

Nursing home means a dwelling or part thereof within which shelter, meals and nursing care are supplied to three (3) or more patients who are not members of the family of the operator or supervisor of the home.

Occupant means any person over six (6) months of age, including an owner or operator, living, sleeping or cooking in or having actual possession of a dwelling unit.

Operator means any person who has charge, care, custody or control of the building or part thereof in which dwelling units are offered for rent or occupancy.

Owner means any person who alone or jointly or severally with others:

- (1) Has legal title or equitable title of any dwelling unit; or
- (2) Has charge, care or control of any dwelling or dwelling unit as executor, executrix,

administrator, administratrix, trustee or guardian of the estate of the owner.

Plumbing includes all gas pipes, waste pipes, water pipes, water closets, sinks, lavatories, bathtubs, catch basins, drains, vents and any other provided fixtures together with the connections to the water, sewer or gas lines.

Premises means any platted lot or part thereof or parcel of land or plot of land either occupied or unoccupied by any dwelling or non-dwelling structure.

Roomer means an occupant, transient or permanent, of a dwelling unit, who is not a member of the family occupying the dwelling unit.

Rooming house means any dwelling or that part of any dwelling containing one (1) or more rooms in which space is let by the owner or operator to more than two (2) roomers.

Second-class dwelling means any multiple dwelling which contains three (3) or more second-class dwelling units, with second-class dwelling units being defined as dwelling units without the exclusive use of toilet facilities.

Temporary housing means any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utility system on the same premises.

Toilet means a water closet with a bowl and trap which is of such shape and form and which holds a sufficient quantity of water so that no waste will collect on the surface of the bowl and which is equipped with flushing rims which permit the bowl to be properly flushed and scoured when water is discharged through flushing rims.

(b) Whenever the words “dwelling”, “dwelling unit”, “rooming house”, “rooming unit”, “nursing home”, “nursing unit”, “hotel”, “hotel unit”, “motel”, “motel unit”, “motor hotel” or “motor hotel unit”, or “premises” are used in this article, they shall be construed as though they were followed by the words “or any part thereof”.

(Code 1965, §15.52; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 86-97, §1, 10-15-97; Ord 18-14, §1, 5-13-14)

Cross reference(s)--Definitions and rules of construction generally, §1-2; Unsafe buildings, §4-181 et seq.; health and sanitation, Ch. 7; fair housing regulations, §8-26 et seq.; nuisances, Ch. 12.

Sec. 4-232. Purpose of article; declaration of nuisance.

The purpose of this article shall be to preserve and protect the public interests of the City and the dignity of its citizens, regardless of race, color, or religious beliefs, by setting requirements for minimum housing standards, in order

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to ensure health, comfort and absence of discrimination. These standards shall provide minimum requirements for living space, ventilation, sanitary facilities, illumination, heating, population densities and maintenance. No person shall occupy as owner-occupant or let or offer to let for occupancy to another person any dwelling unit which shall fail to meet such requirements. Failure to provide minimum requirements shall constitute a public nuisance.

(Code 1965, §15.50)

Sec. 4-233. Interpretation of article.

Nothing in this article shall be construed or interpreted to in any way impair or limit the authority of the City to define or declare nuisances or of the Inspection Supervisor or the Health Department to cause the removal or abatement of nuisances, summary proceedings or other appropriate proceedings.

(Code 1965, §15.60; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-234. Applicability of article.

Every dwelling or dwelling unit used, designed or intended to be used for human habitation shall comply with the provisions of this article.

(Code 1965, §15.51)

Sec. 4-235. Buildings unfit for human habitation.

(a) Any of the following dwellings or dwelling units shall be unfit for human habitation:

- (1) One which is so damaged, decayed, dilapidated, unsanitary, difficult to heat, unsafe or vermin-infested that it creates a hazard to the health or welfare of the occupants and the public;
- (2) One which lacks sufficient illumination, ventilation or sanitary facilities adequate to protect the health or welfare of the occupant or the public; or
- (3) One which because of its general condition or location is unsanitary or otherwise dangerous to the health or welfare of the occupants and the public.

Any such building shall be subject to the provisions of §4-136 and §4-140 adopting the state building code.

(Code 1965, §15.59, Ord 71-99, §1, 10-10-99)

Sec. 4-236. Maintenance generally.

All residential structures and buildings, or portions thereof, shall be maintained to comply with the following requirements:

- (1) Every foundation, exterior wall and roof and gutter system shall be reasonably weathertight, waterproof and rodent-proof and shall be kept in a good state of maintenance and repair.
- (2) Every interior partition wall, floor and ceiling shall be capable of affording privacy, kept in a reasonably good state of repair and maintained so as to permit it to be kept in a clean and sanitary condition.
- (3) All rainwater shall be so drained and conveyed from every roof so as not to cause dampness in the walls, ceilings or floors of any habitable room, or any bathroom, or of any toilet room.
- (4) Exterior doors, windows or hatchways for buildings or structures, shall be provided with devices designed to provide security for the occupants and property within and kept reasonably weathertight and rodent proof and shall be kept in reasonably good state of maintenance and repair. Screens shall be supplied to allow covering of at least one-third (1/3) of the basement window area, except where other means of adequately ventilating such rooms are available and operating. Screens shall have a wire mesh of not less than no. 16.
- (5) All exterior surfaces shall be protected from the elements and against decay and deterioration by paint or by other approved protective coating, applied in a workmanlike fashion.
- (6) Every inside and outside stairway, every porch and every appurtenance thereto shall be so constructed as to be reasonably safe to use and capable of supporting such a load as normal use may cause to be placed thereon; and shall be kept in sound condition and a reasonably good state of maintenance and repair.
- (7) Every supplied plumbing fixture and water or waste pipe shall be properly installed and maintained in good, sanitary working condition.
- (8) Every chimney and every supplied smoke pipe shall be adequately supported, reasonably clean and maintained in a reasonably good state of repair.
- (9) Every toilet room floor surface and bathroom floor surface shall be maintained so as to be reasonably impervious to water and so as to permit such floors to be kept in a clean and sanitary condition.
- (10) Every supply facility, piece of equipment, or utility which is required under this article shall

be so constructed or installed that it will function properly and shall be maintained in reasonably good working condition.

- (11) No owner or operator shall cause any service facility, equipment or utility which is required to be supplied under provisions of this article to be re-moved from or shut off from or disconnected for any occupied dwelling or dwelling unit let or occupied by him except for such temporary interruptions as may be necessary while actual repairs, replacement or alterations are in process of being made.
- (12) Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for the extermination of insects, rodents or pests on the premises. Wherever infestation exists in any two (2) or more of the dwellings, or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination thereof shall be the responsibility of the owner.
- (13) Every owner of a dwelling containing two (2) or more dwelling units shall be responsible for maintaining in a reasonably clean, sanitary condition all communal shared or public areas of dwellings or premises thereof which are used or shared by the occupants of two (2) or more dwelling units.
- (14) No owner shall rent for occupancy or allow any person to occupy any vacant dwelling unit unless it is reasonably clean, sanitary and complies with all provisions of this chapter and all rules and regulations adopted pursuant thereto.
- (15) All structures in the City serviced by an elevator shall have Certificates of Inspection and license filed with the Inspection Supervisor quarterly. Failure on the part of the owner or operator to comply with this subsection shall be sufficient evidence to designate such structure as unfit for human habitation.
- (16) For all single family, two family and multi family dwellings, no more than two (2) layers of shingles, or other similar roofing materials, may be installed onto a roof.

(b) A written contract assigning any or all of the responsibilities provided in this section to the occupant shall be deemed sufficient to place the responsibilities of this section upon the occupant.
(Code 1965, §15.55; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96, Ord 63-07, §1, 3-27-07;

Ord 19-14, §1, 5-13-14)

Sec. 4-237. Responsibilities of occupant.

(a) Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies or controls.

(b) Every occupant of a dwelling unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in rubbish containers required by this code.

(c) Every occupant of a dwelling or dwelling unit shall dispose of all his garbage and any other organic waste that might provide food for rodents in a clean and sanitary manner by placing it in a garbage disposal facility or garbage storage container required by this code.

(d) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one (1) dwelling unit shall be responsible for such extermination in the dwelling unit occupied by him whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a reasonably ratproof or reasonably insectproof condition, extermination shall be the responsibility of the owner.

(e) Every occupant of a dwelling unit shall keep all supplied plumbing fixtures in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

(f) Every plumbing fixture furnished by an occupant shall be properly installed and shall be properly maintained in a reasonably good working condition and clean and sanitary state and free from leaks and obstructions.

(g) Every occupant of a dwelling unit shall be responsible for the exercise of reasonable care, proper use and proper operation of supplied heating facilities.

(h) Every space heater furnished by the occupant shall be properly installed, shall be maintained in reasonably good working condition and shall comply with all of the requirements of Article VII of this chapter, the City heating and ventilating code.
(Code 1965, §15.57)

Sec. 4-238. Sanitary facilities; access; entrances and exits.

No person shall occupy as owner-occupant or let or offer to let for occupancy any dwelling or dwelling unit for the purpose of living, sleeping, cooking or eating of meals therein

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which does not comply with the following requirements:

- (1) Every dwelling unit shall contain an approved kitchen sink.
- (2) Every dwelling unit shall contain a bathroom.
- (3) A bathroom shall contain a bathtub or shower, a toilet and a lavatory installed in an approved manner and maintained in working order. No bathroom shall contain less than ten (10) square feet per plumbing fixture.
- (4) Every dwelling unit shall have water heating facilities which are properly installed and maintained in reasonably good working condition and are properly connected with hot water lines to the kitchen sink, lavatory and bathtub and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every bath at a temperature of not less than one hundred (100) degrees Fahrenheit. Such water facilities shall be capable of meeting the requirements of this subsection when the heating facilities of the dwelling or dwelling unit required under the provisions of §4-239 are not in operation.
- (5) Every kitchen sink, toilet, lavatory, basin and bath shall be in good working condition and properly connected to an approved water and sewer system.
- (6) Garbage and refuse containers shall be provided for every dwelling and dwelling unit. Such containers shall meet the requirements of §15-28 et seq.
- (7) Access to areas within the dwelling unit shall be as follows:
 - a. Access to all areas of a dwelling unit included in the computation of habitable area of the dwelling unit shall be available from all the other habitable areas of the dwelling unit without passing through any portion of any other dwelling unit or communicating corridor common to more than one (1) dwelling unit.
 - b. Access to all habitable areas of a dwelling unit included in the computation of the habitable area of the dwelling unit on a floor or level other than that of the main living area shall be via an interior stairway with fixed risers. No stairway shall be located in a closet.

- (8) Every stairway, entrance and exit of every dwelling and dwelling unit shall comply with SPS 321.03 of the Uniform Dwelling Code and the following requirements:

- a. Stairways, entrances and exits shall be kept in a reasonably good state of repair.
- b. Access and egress shall be possible from all entrances and exits of all dwellings and dwelling units at all times in a manner approved by the City Fire Department.

(Code 1965, §15.53; Ord 131-10, §1, 9-21-10; Ord 25-12, §1, 3-7-12)

Cross reference(s)--Health and sanitation, ch. 7; public nuisances generally, §12-26 et seq.; weeds and wild growth, §12-56 et seq.

Sec. 4-239. Lighting, ventilation and heating.

All residential dwellings, or portion thereof, shall be maintained to comply with the following requirements:

- (1) Every public hall and public stairway of every dwelling containing four (4) or more dwelling units shall be adequately lighted by means of properly located electric light fixtures at all times, provided that such electrical lighting may be omitted from sunrise to sunset where there are windows or skylights opening directly to the outside and where the total window or skylight area is at least one-tenth of the combined horizontal area of the hall and stairway, and if the skylights provide adequate natural light to all parts of each public stairway. Every public hall and stairway in dwellings containing two (2) or three (3) dwelling units shall be supplied with convenient light switches controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting. Adequate bulbs shall be provided in every public hall and on every public stairway so that a minimum of one (1) foot candle of light is delivered to all parts of the public hall or stairway. All receptacles, luminaires and electrical equipment in multi-family buildings shall be installed and maintained in good working condition and shall be connected with the source of electric power in conformance to Article VI of this chapter, the City electrical code.
- (2) Every kitchen and habitable room within every dwelling or dwelling unit shall contain at least two (2) separate and remote floor or wall type electric convenience outlets or one (1) such convenience outlet and one (1) supplied ceiling or wall type electric light fixture. Every toilet room, bathroom, furnace room, laundry room, stairs and hall shall contain at least one (1) supplied ceiling type or wall

type electric light fixture. All receptacles, luminaires and electrical equipment in a dwelling or dwelling unit shall be installed and maintained in good working condition and shall be connected with the source of electric power in conformance to Article VI of this chapter, the City electrical code.

- (3) At least one (1) window in each habitable room shall be supplied with a screen covering at least thirty-three and one-third percent (33⅓%) of the window area; provided that such screens shall not be required in rooms deemed by the Health Officer to be located sufficiently high in upper stories of dwellings as to be free of mosquitoes, flies and other flying insects. Such screens shall have a wire mesh not less than no. 16 or, in lieu thereof, mechanical ventilation.
- (4) Every habitable room, kitchen, bathroom and toilet room shall have windows with a total glass area equal to at least eight percent (8%) of the room's floor area. Such windows shall open onto a street, alley, or yard court or be open to the sky. Windows shall be so constructed that at least one-half (½) may be fully opened and securely closed. Approved mechanical ventilation may be substituted.
- (5) Each dwelling unit shall have heating facilities supplied. The facilities shall be properly installed, be maintained in reasonably good working condition, and be capable of adequately heating all habitable rooms, bathrooms and toilet rooms contained in the dwelling unit where intended for use by the occupants thereof to a temperature of at least seventy degrees (70°) Fahrenheit or in accordance with the design standards established in the Wisconsin Uniform Dwelling Code, SPS 322.07. Every supplied central heating system shall comply with the following requirements:
 - a. The central heating unit shall be in reasonably good operating condition.
 - b. Every heat duct, steam pipe and hot water pipe shall be free of leaks and shall function so that an adequate amount of heat is delivered where intended.
 - c. Every seal between the sections of the hot air furnace shall be tight so noxious gases shall not escape into the duct. Every space heater shall comply with Article VII of this chapter, the City heating and ventilating code.
- (6) Every owner or operator of any dwelling who rents, leases or lets for human habitation any dwelling unit contained within such dwelling on terms, either expressed or implied, to supply or furnish heat to the

occupants thereof, shall maintain therein a minimum temperature of seventy (70) degrees Fahrenheit or in accordance with the design standards established in the Wisconsin Uniform Dwelling Code, SPS 322.40. Whenever a dwelling is heated by means of a furnace, boiler or other heating apparatus under the control of the owner or operator of the dwelling, such owner or operator, in the absence of a written contract or agreement to the contrary, shall be deemed to have contracted, undertaken or bound himself to furnish heat in accordance with provisions of this subsection to every dwelling unit which contains radiators, furnace heat duct outlets, or other heating apparatus outlets.

(Code 1965, §15.54; Ord 2-06, §1, 1-10-06; Ord 71-08, §1, 4-8-08, Ord 149-11, §1, 6-7-11; Ord 20-14, §1, 5-13-14)

Sec. 4-240. Occupancy; arrangement and size of rooms.

No person shall occupy as owner-occupant or let or offer to let for occupancy any dwelling or dwelling unit for the purpose of living therein which does not comply with the following requirements:

- (1) No dwelling unit shall be occupied by more than one (1) family, including two (2) occupants who are not related to the family.
- (2) At least one-half (½) of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet, and the floor area of that part of any room where the ceiling height is less than seven (7) feet, shall be considered as part of the floor area in computing the total area of the room for the purpose of determining the maximum permissible occupancy thereof or habitable area.
- (3) Every dwelling unit shall contain at least one hundred fifty (150) square feet of floor area for the first occupant thereof and at least one hundred (100) additional square feet of floor space for every additional occupant.
- (4) No dwelling or dwelling unit containing two (2) or more sleeping rooms shall have such room arrangement that access to a bathroom or toilet room intended for use by occupants of more than one (1) sleeping room can be had only by going through another sleeping room; nor shall such room arrangements exist that access to a sleeping room can be had only by going through another sleeping room or bathroom or toilet room.

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- (5) Every room occupied for sleeping purposes by one (1) occupant shall contain at least sixty (60) square feet of floor space and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least forty (40) square feet of floor space for each occupant thereof.

- (6) No space in a cellar or basement may be used for sleeping unless the basement has two (2) legal exits in accordance with SPS 321.03(5) through SPS 321.03(7) and natural light and ventilation for sleeping rooms in accordance with §4-239 of this section.

(Ord 26-12, §1, 3-21-12)

- (7) Every occupant of every dwelling unit shall have unrestricted access to a toilet and to a kitchen sink or lavatory basin located within that dwelling unit.

(Code 1965, §15.56)

Sec. 4-241. Non-dwelling structures, fences and drainage.

(a) No owner shall permit any non-dwelling structure, including fences, to rest on any premises which does not comply with the following requirements:

- (1) Every foundation, exterior wall, roof, window, exterior door or basement hatchway, and every other entranceway of every non-dwelling structure, shall be so maintained as to prevent the structure from becoming a harborage for rats, and shall be kept in a reasonably good state of maintenance and repair.
- (2) All exterior surfaces of non-dwelling structures shall be properly protected from the elements and against decay and decomposition by paint or other approved protective coating applied in a workmanlike manner.
- (3) Every fence shall be kept in a good state of maintenance.
- (4) All fence posts shall be anchored at least forty-eight (48) inches into the ground.

(b) Every premise shall be graded and maintained so that no stagnant water shall accumulate or stand on the premises or within any building or structure located on the premises.

(c) For all non-dwelling structures, no more than two (2) layers of shingles, or other similar roofing materials, may be installed onto a roof.

(d) Driveways – One and Two Family.

- (1) Material. Driveways shall be paved with concrete, asphalt, or brick pavers. Concrete shall be finished to a minimum thickness of 4.5 inches and minimum 3/8" diameter reinforcing rods spaced at 24 inches on center shall be installed. Asphalt shall be paved to a finished thickness of no less than 2 inches. Paving bricks shall be no less than 2-1/4" thick and shall be installed upon a properly compacted and leveled base in a manner that is consistent with standard installation practices. Other or similar "hard surfaces", as referenced by the Municipal Code, shall only include items approved by the Director of Community Development, prior to installation, as acceptable paving materials. Such materials shall be installed in a manner that is consistent with professional installation practices.

- (2) Any other areas, beyond the minimum requirements, considered to be parking surfaces, must either be paved or converted to a grass/lawn surface by completely removing any gravel or non-conforming driveway surface and installing a minimum of 2" of topsoil prior to seeding.

- (3) If a driveway is to be completely removed, the driveway apron shall also be completely removed and the area restored to grass/lawn area as stated above, and the curb section reinstalled. Replacing the curb requires a permit and must be performed in accordance with City specifications by a contractor licensed with the City to perform such work.

- (4) Repairs to existing hard surfaced driveways shall be made with materials of the same type as the existing hard surface unless the entire driveway is being replaced.

(Code 1965, §15.58, Ord 64-07, §1, 3-27-07; Ord 139-24, §1, 11-6-24)

Secs. 4-242 – 4-260. Reserved.

ARTICLE V. PLUMBING*

DIVISION 1. GENERALLY

Sec. 4-261. Definitions.

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

A-E shall mean the Wisconsin Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, Professional Land Surveyors, and Registered Interior.

Clay dam shall mean a deposit of soil, normally clay or a mix of clay and other soils, that is placed somewhere on a sanitary lateral leading to a building with a basement to help prevent stormwater collected by the sewer mains from following the lateral into a basement and creating potential for water damage.

Clearwater shall mean storm water, ground water and wastewater having no impurities or where impurities are below a minimum concentration considered harmful by SPS, including, but not limited to: non-contact cooling water, condensate drainage from refrigeration compressors and air conditioning equipment, drainage of water used for equipment chilling purposes and cooled condensate from steam heating systems.

Curb thimble shall mean a conduit that is run underground from a building through the curb that conveys storm water onto the street.

Discharge shall mean water that is directed in such a manner that it flows onto the ground or into a storm sewer system. Discharge includes but is not limited to clearwater, water from sump pumps, and water and snow melt from downspouts and roofs.

Drywell shall mean a structure or excavation installed in the ground designed to collect storm water from downspouts, sump pumps, or other sources of storm water.

Groundwater shall mean any of the waters of the state, as designated in W.S.A. §281.01(18), as amended from time to time, occurring in a saturated subsurface geological formation of rock or soil.

Inspections Supervisor shall mean the City of Appleton Inspections Supervisor or designee.

Plumbing has the meaning designated in W.S.A. §145.01(10), as amended from time to time.

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POWTS shall mean private onsite waste treatment system.

Private sanitary lateral shall mean the portion of the sanitary sewer that extends from just inside a building to the connection at the main as defined in the City of Appleton Sanitary Lateral Repair Policy, as amended from time to time.

Run off shall mean storm water and precipitation, including rain, snow or ice melt, or similar water that moves on land surface via sheet or channelized flow.

Sewer service lateral means that part of the drainage system extending from the property line to the connection with the main sewer.

Single-family owner-occupied shall mean a single-family dwelling that is owned and occupied by the permit applicant. Single Family owner-occupied does not include condominiums, owner-occupied duplexes, or owner-occupied two-family buildings.

Spring line shall mean the point at which a dry vent connects to a drain branch.

SPS shall mean the Wisconsin Department of Safety and Professional Services.

State Plumbing Code shall mean Wisconsin Administrative Code SPS chapters 380 through 387, as amended from time to time.

Storm water shall mean water that originates from rain or snow and includes ice melt.

(Code 1965, §16.02; Ord 55-22, §1, 9-29-22)

Cross reference(s)--Definitions and rules of construction generally, §1-2, Utilities, ch. 20.

State law reference(s)--Plumbing, W.S.A. §145.01 et seq.; state licensing of plumbers, W.S.A. §145.04(2).

Sec. 4-262. State Plumbing Code adopted.

The Wisconsin Administrative Code SPS chapters 380 through 387 and W.S.A. chapter 145, as amended from time to time, are hereby adopted by reference and made a part of this article. The provisions thereof and of this article shall govern all plumbing, private sewage disposal, and drainage work and no plumbing, private sewage disposal, or drainage work shall be done except in accordance with the adopted codes and this article.

(Code 1965, §16.01; Ord 85-97, §1, 10-15-97; Ord 55-22, §1, 9-29-22)

Sec. 4-263. Inspection of new work.

The Inspections Supervisor shall be notified to allow for inspection of work regulated under this article in accordance with requirements of Article II of this chapter. Notification shall include the owner's name, correct address of the

property, and name of the master plumber responsible for the installation. Upon approval of the underground piping, the Inspections Supervisor shall identify the approved underground piping with a notice in a visible location. When rough-in work is approved, a tag indicating such approval will be placed on each floor level where plumbing is installed. No work shall be covered without approval from the Inspections Supervisor. Such inspection and approval shall not in any case constitute a guarantee against imperfection by either the City or the Inspections Supervisor. (Code 1965, §16.11; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 55-22, §1, 9-29-22)

Sec. 4-264. Inspection of rental properties, relocated buildings.

(a) All rentable properties, upon becoming vacant, may be inspected by the Inspections Supervisor and their sanitary condition determined. If the plumbing or any work covered by this article is in an unsanitary condition or a menace to health or safety, the premises shall be repaired and put in a sanitary condition before a new occupant takes possession.

(b) The plumbing in buildings moved from one lot or location to another shall be inspected by the Inspections Supervisor and, when found necessary, tested in a manner satisfactory to the Inspections Supervisor at the expense of the owner. If plumbing is found unsafe or unsanitary, the plumbing shall be repaired or remodeled and made to reasonably comply with this article.

(Code 1965, §16.08; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 55-22, §1, 9-29-22)

Sec. 4-265. Permit required for plumbing work in public right-of-way.

(a) No person shall engage in or work at plumbing in the public right-of-way without the following conditions first being met:

- (1) The applicant shall obtain a street excavation permit from the Department of Public Works.
- (2) The applicant shall file with the City Clerk proof of workers compensation, automobile and general liability insurance equal to or greater than that required by the City and approved by the City's Risk Manager, and it shall be kept in full force and effect for one (1) year after the work has been completed.
- (3) The applicant shall file with the Department of Public Works a permit bond in the penal sum of five thousand dollars (\$5,000.00) executed by the applicant as principal and a surety company authorized to do business in the State of Wisconsin, running in favor of the City so that

in the event the City should suffer any loss or damage by any negligence, malfeasance or misfeasance in the conduct of the work performed under this section shall have the right to institute an action for recovery against the applicant and the surety upon such bond. The bond must further state that the applicant shall fully comply with all provisions of State law and City ordinances as applicable and that the applicant will save and indemnify the City against any costs, expenses or damages which may in any way accrue against the City due to the work performed under this section, and will keep the City harmless against all liabilities, judgments, costs and expenses as a consequence of the work.

(Code 1965, §16.06; Ord 32-92, §1, 3-18-92; Ord 174-93, §1 10-19-93; Ord 53-94, §1, 4-20-94; Ord 118-96, §1, 12-18-96; Ord 101-16, §1, 12-13-16; Ord 55-22, §1, 9-29-22)

Sec. 4-266. Correction of unsanitary installations.

When complaints are received that work covered by this article is contrary to the ordinances of the city or is a menace to health, the Inspections Supervisor can investigate the cause for complaint on the premises. A report of the findings, suggesting such changes and corrections as are necessary to put the premises in proper sanitary condition shall be made. The Inspections Supervisor thereupon shall direct such changes and corrections to be made as deemed necessary, and set a time for having the changes and corrections done. Failure to comply may result in legal action against the property owner.

(Code 1965, §16.07; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 55-22, §1, 9-29-22)

Sec. 4-267. Inspection of sewer and water services.

All sewer service laterals and water service pipes installed on private property shall be inspected by the Inspections Supervisor. The portions of the sewer or water service laterals installed or repaired from the water main to the private property line, shall be inspected by the Inspections Supervisor. No service pipe shall be laid and no opening into or connection with a sewer service lateral, public sewer or water main shall be made, including the relaying, replacing or repairing of the lateral, sewer or water main, except under the observation of the Inspections Supervisor. All work involving sanitary, storm, or water mains and laterals shall be left uncovered until examined and approved.

(Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 55-22, §1, 9-29-22)

Cross reference(s)—Water utility, §20-31 et seq.; sewers and waste water disposal, §20-66 et seq.

Sec. 4-268. Street openings.

(a) **Requirements.** Openings in any street, alley or

public place shall be governed by Chapter 16 and by any specifications or policies on street openings adopted by the Common Council.

(b) A street excavation permit must be obtained prior to any sewer permit being issued for proposed work in the public right-of-way.

(c) DPW staff shall be notified no later than one (1) business day prior to any lane closure or two (2) business days prior to a full road closure.

(d) Any person obtaining a permit to repair, replace, or install new sanitary, storm, or water laterals shall notify the Inspections Division whenever the work is ready for inspection. All work shall be left uncovered until examined and approved by the Department.

(Code 1965, §16.04; Ord 185-04, §1, 1-1-05; Ord 55-22, §1, 9-29-22)

Sec. 4-269. Connections to public sewer.

(a) **Record of sewers.** The Department of Public Works shall keep a record on file, for the purpose of showing the size and location of public sewers and the position of the branches, junctions, laterals, and appurtenances.

(b) **Location of branches; new connections.** Information concerning the location of wye branches in the public sewer or of sewer service laterals shall be furnished by the City Engineer or designee. All reasonable care will be taken to ensure the correctness of such information, but such correctness will not be guaranteed. When, in accordance with the measurement furnished, the junction is not found in the public sewer within a distance of three (3) feet from the flow side of the measurement, permission shall be given by the City Engineer or designee to the plumber applying therefore to make a new connection. All such connections shall be made in accordance with this Chapter and all other required specifications. No connection with any sewer or any part thereof shall be covered without approval of the Inspections Supervisor or the City Engineer or designee, but such inspection and approval shall not in any case constitute a guarantee against imperfection by either the City or the Director.

(c) **Record of connections.** The Inspections Supervisor or City Engineer shall make a record of all sewer connections, showing the location of the lot, the name of the installer, and the location of the connection. These records shall be entered into the GIS system.

(d) **Minimum depth.** A sewer service lateral or building or house sewer shall, where the depth of the main sewer permits, be installed at a minimum depth in residence districts of ten (10) feet below the established sidewalk grade and in commercial or industrial districts at a minimum depth of twelve (12) feet below the established sidewalk grade.

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Measurements shall be from the top of the sidewalk to the invert or flow line of the sewer. The grade of a sidewalk, where established, may be obtained from the Department of Public Works upon request.

(Code 1965, §16.05; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 55-22, §1, 9-29-22)

Sec. 4-270. Connection to public sewers and water mains required.

(a) Whenever public sewers and water mains are laid along and within any public street, alley or place in the City, the Inspections Supervisor may notify in writing all owners or their agents and occupants of all houses, tenements and other buildings used for human habitation situated on lots or parcels of land abutting upon such street, alley or place which is accessible to such sewer and water main, to connect therewith and to connect all interior plumbing upon their respective lots or parcels of land with the sewer in a sanitary manner in accordance with the State Plumbing Code within thirty (30) days after service of such a notice. Upon a failure to comply, the Inspections Supervisor may cause such connections to be made and the cost thereof to be levied and collected in the same manner as other taxes pursuant to W.S.A. §281.45.

(b) In a district zoned commercial, light manufacturing or heavy industrial all buildings other than those used for residential purposes shall be connected to storm sewers, where available, upon order of the Inspections Supervisor.

(c) Whenever public mini-storm sewers or storm laterals are laid along and within any public street, alley or place in the city and ready for use, property owners shall, upon notice from the City, connect to the lateral provided to their particular property.

(d) A sewer permit shall be obtained from the Inspections Division by a person licensed with the State to perform such work prior to any work being started. Failure of the property owner to connect within the specified time may result in a notice of noncompliance being issued. All connections shall be made in accordance with the requirements of the State Plumbing Code.

(e) If any such owner, agent or occupant fails to comply with such notice, the Inspections Supervisor shall cause such connections to be made and the cost thereof assessed as a special tax against the lots or parcels of land and the amount thereof shall be levied and collected in the same manner as other taxes, pursuant to W.S.A. §281.45.

(f) After connection to a water main and public sewer, no septic system shall be constructed or maintained upon any such lot or parcel and shall be abated upon thirty (30) days written notice for such abatement by the Inspections Supervisor. If not so abated, the Inspections Supervisor shall cause the same to be done and the cost thereof assessed as a

special tax against the property and the amount shall be levied and collected in the same manner as other taxes, pursuant to W.S.A. §281.45. The abatement should be conducted pursuant to, Wisconsin Administrative Code SPS 383.33.

(g) At the time when the property is connected to City water, existing water wells shall either be abandoned or permitted for with the City of Appleton to remain in use. Such uses shall be limited to irrigation or similar non-potable uses and shall not be connected with the City water supply.

(h) At the time when the property is connected to the City sewer, the septic tank shall be abandoned per state requirements set forth in the Wisconsin Administrative Code SPS 383.33. Prior to abandoning the septic tank, a sewer permit shall be obtained from the Inspections Division. The abandonment process shall be inspected by the Inspections Supervisor.

(i) The City may extend the time for connection hereunder or may grant temporary relief where strict enforcement of this section would work as unnecessary hardship without corresponding public or private benefit. (Code 1965, §7.04, §7.04(1)-(4); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 15-97, §1, 3-5-97; Ord 85-97, §1, 10-15-97; Ord 25-12, §1, 3-7-12; Ord 14-13, §1, 7-8-13; Ord 55-22, §1, 9-29-22)

Sec. 4-271. Discharge of drains and sewers.

(a) ***Certain discharges prohibited.*** No person shall discharge domestic sewage, industrial wastes, septic tank effluent, or any other pollutant onto the surface of the ground, into any drainage ditch, into any river or stream or into any storm sewer or drain, or permit such materials to be so discharged.

(b) ***Discharges to storm sewers.*** Roof leaders, surface drains, groundwater drains, foundation footing drains and other clearwater drains shall be connected wherever possible with a storm sewer, but they shall not be connected to a building sewer which discharges into a sanitary sewer or private sewage treatment plant. Air conditioning and clearwater drains not described in this subsection shall also discharge to storm drains or sewers, unless special permission is obtained from the Inspections Supervisor in cases where an unnecessary hardship would result and where the spirit of this subsection would be observed. If stormwater or clearwater is being discharged into a sanitary sewer a notice of non-compliance shall be sent to the owner of the property to eliminate the cross-connection.

(c) ***Discharge to public streets.*** No person shall discharge any clearwater directly into a public street or alley from November 1 to March 31, inclusive. No person shall discharge any clearwater directly into a public street or alley from April 1 to October 31, inclusive, without first obtaining

permission from the Public Works Director or an authorized representative.

(d) **Discharge onto sidewalks.** No person shall permit the regular discharge of water directly onto any sidewalk or other public area. Such discharge shall constitute a nuisance.

(e) **Other Discharges:**

(1) **Generally.** Where a storm sewer is deemed available or suitable, the City of Appleton may require a property owner to have their sump pump, downspouts or other similar storm water discharges connected to said storm sewer. Such connections shall be installed as required by this Chapter. Otherwise, storm water may be discharged onto the ground surface a minimum of two (2) feet from the foundation. (Note: this shall include the discharge from downspouts.) Discharges or run offs shall not be directed so as to flow onto adjacent property or be allowed to accumulate and create ponds of standing water or other public nuisance. Trenching, channeling, or other alterations whereby the flow of storm water is concentrated and where it adversely affects adjacent property shall also be prohibited.

(2) **Drywells.** If drywells are constructed, the drywell shall be installed in such a manner that any overflow from said drywell does not flow onto adjacent property or create any other nuisance as described in this chapter.

(3) **Garage floor drains.** Garage drains that discharge to grade shall discharge to natural grade and shall not be directed as to flow onto adjacent property. The discharge from a garage drain shall be kept a minimum of four (4) feet from the nearest property line.

Nothing contained in this subsection shall act to relieve a person from complying with the other provisions of this section.

(f) **Curb thimbles.** The installation of curb thimbles is prohibited. Existing curb thimbles shall cease to be used in the following instances:

- (1) The street is reconstructed.
- (2) A storm lateral is provided to the property.
- (3) The drainage from the thimble creates a public nuisance or hazard.

(4) Upon order from the Inspections Supervisor.
(Code 1965, §16.09; Ord 32-92, §1, 3-18-92; Ord 174-93, §1,

10-19-93; Ord 118-96, §1, 12-18-96, Ord 186-04, §1, 1-1-05; Ord 55-22, §1, 9-29-22)

Sec. 4-272. Sealing of unused sewer and water services.

(a) All sewer and water laterals or building sewers and water services installed and not immediately used shall be securely sealed so as to be watertight. This shall be done by the use of proper fittings and materials manufactured for that purpose and in a manner approved by the Inspections Division.

(b) Before any building connected to city sanitary sewer or water mains is razed or moved to another location, a permit shall be obtained by a person licensed by the State to perform such work from the Inspection Division to disconnect and seal all sanitary sewer and water services serving the premises. Sealing of the sewer and water laterals shall comply with Sec. 4-188. The water service shall be disconnected and sealed at a location point determined by the Water Utility. The disconnections and sealing thereof shall be approved by the Inspection Division before the work is covered.

(c) All water wells which are temporarily or permanently abandoned shall be sealed by a Wisconsin registered well constructor or pump installer after first obtaining a permit from the Inspections Division. The well shall be sealed and a report filed with the State Board of Health in conformance with the State Well Construction and Pump Installation Code.
(Code 1965, §16.12; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 102-16, §1, 12-13-16)

Sec. 4-273. Building sewers and building drains.

(a) Building drains and subdrains under twelve (12) inches inside diameter shall be constructed of materials listed in Table 384.30-3 of the State Plumbing Code, as updated from time to time.

(b) All building sanitary sewers shall be constructed of materials listed in Table 384.30-3 of the State Plumbing Code, as updated from time to time. This paragraph applies to all new construction including construction after a building was demolished or razed.

(c) Cleanouts shall be installed to comply with Wisconsin Administrative Code SPS 382.35.

(d) All sewer service laterals and building sewers shall be bedded in clear stone or any other material approved by Department of Public Works staff to the centerline of the pipe. Bedding material shall be washed gravel with the sand removed, or crushed and screened stone with general fines removed. The size of the bedding stone shall be such that one hundred percent (100%) shall pass a one-half (½) inch sieve.

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On new installations, where the building has a basement, a clay dam shall be installed on the lateral leading to the building.

(e) Underground building drains shall be laid on original or firm ground or thoroughly compacted material. Voids between such firm foundation and the bottom of the pipe, along its entire length, shall be filled with bedding stone as specified for building sewers.

(f) An approved backwater valve shall be installed in the sanitary sewer lateral of every new building and shall be accessible to the property owner for service or replacement except as provided below. All interior plumbing waste shall pass through the backwater valve. The required backwater valve shall not be installed in the public right-of-way.

Exception. A property owner may apply in writing to the plumbing inspector for an exception to the provision of (f). The application must include evidence of the elevation of both the lowest floor level served by sanitary sewer and the nearest downstream manhole to which the sanitary building drain is or will be connected. The plumbing inspector may approve the exception if the elevation of the lowest floor level served by the sanitary sewer is at least one (1) foot higher than the elevation of the nearest manhole to which the sanitary building drain is or will be connected. (Code 1965, §16.13; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96, Ord 36-02, §1, 3-25-02; Ord 55-22, §1, 9-29-22)

Sec. 4-274. Waste pipes and vents.

(a) Garage drains shall not be connected to foundation footing drains nor to a clearwater sump. Garage drains run to grade shall be directed so as to not flow onto adjacent property. Drains that discharge to grade must discharge to natural grade.

(b) All vent terminals shall extend at least eight (8) inches above the roof at the centerline of the pipe. The joint where a vent terminal passes through the roof shall be made watertight by the use of flashings as approved by SPS.

(c) Dry vents shall be taken off of the horizontal drain they serve above the spring line and the connection shall be made at an angle of forty-five degrees (45°) or greater from the centerline of the pipe being served. See Administrative Code SPS 382.31(15)(b) Appendix. (Code 1965, §16.14; Ord 55-22, §1, 9-29-22)

Sec. 4-275. Clearwater inspections.

(a) The Building Inspection Division shall, when deemed necessary by the Director of Public Works or designee thereof, or upon a reasonable request by the owner of record, conduct an inspection of the premises to ensure compliance with the provisions of the code relating to illegal

surface or ground water connections into the sanitary sewer system.

(b) A notice of noncompliance shall be issued by the Building Inspection Division to the owner of record of any building found not to be in compliance with the provisions of the code. The notice shall set forth areas of noncompliance and shall order the owner to bring the building into compliance within an established period of time.

(c) Failure to bring the property into compliance within the applicable compliance period shall constitute a violation of this section and shall be subject to the penalties set forth in Sec. 4-24.

(d) **No warranty.** An inspection meeting compliance only indicates that so far as can be reasonably determined by a visual inspection of the premises and review of City records, the premises meets the requirements of this section. Neither the City nor its inspectors assume any liability in the inspection findings, whether compliant or not, and the City does not guarantee or warrant the condition of the premises inspected.

(e) **Not liable.** The City will not be liable for any unsafe and/or unsanitary conditions that exist in any building inspected for clearwater compliance. However, if any such conditions exist, and are noticed by an inspector, authority shall be granted to issue orders to correct such conditions. (Ord 187-04, §1, 1-1-05; Ord 160-10, §1, 11-23-10; Ord 10-16, §1, 1-12-16)

Sec. 4-276. Grease traps and separators – commercial buildings.

(a) **Installation.** Grease traps or separators shall be installed wherever greasy wastes are discharged into a building drain or sewer. Such grease traps or separators shall be designed to adequately serve the fixture(s), shall be placed as near as possible to the fixture(s) from which they receive waste and shall be accessible for easy cleaning.

(b) **Maintenance.** Grease interceptors shall be maintained and cleaned on a regular basis so as to prevent the escape of grease into sanitary sewer laterals and mains. Regular maintenance of grease traps or separators shall be the responsibility of the owner. A record of all maintenance performed on grease interceptors shall be kept on site and readily accessible to be viewed by the City Inspector.

(c) **Penalty.** Any costs incurred by the City that are the result of having to clean excessive grease from the sanitary sewers (outside of regular scheduled maintenance) may be passed onto the owner of the property responsible for the excessive grease. (Ord 55-22, §1, 9-29-22)

Sec. 4-277. Grease obstructions – residential properties.

(a) Residential property owners shall properly dispose of greasy wastes so it does not cause obstructions to occur in the City's sanitary sewer mains.

(b) **Penalty.** Any costs incurred by the City that are the result of having to clean excessive grease from the sanitary sewers (outside of regular scheduled maintenance) may be passed onto the owner of the property responsible for the excessive grease.
(Ord 55-22, §1, 9-29-22)

Sec. 4-278. Water supply systems and water service.

(a) **Water service.**

(1) Commercial buildings.

- a. Size. The water service or building supply pipe to any building shall be of sufficient size to provide an ample flow of water under maximum use to all fixtures and points of service. Such size shall be determined by standards set forth in the Wisconsin State Plumbing Code.

(2) Residential buildings.

- a. Size. The minimum size water service for new residential one- and two-family constructed dwellings shall be either 1" diameter copper or 1.25" diameter plastic, but in all cases, the service shall be large enough to accommodate the anticipated load of the building it is serving. All water service materials shall comply with Table 384.30-7 of the State Plumbing Code.

(Ord 55-22, §1, 9-29-22)

Secs. 4-279 – 4-290. Reserved.

DIVISION 2. PERMITS

Sec. 4-291. Permit required; exception.

(a) No plumbing shall be done in the City without a permit being first obtained from the Inspections Supervisor and the paying of the proper fee as provided in this division. Such permits may be issued only to persons duly licensed to do plumbing under the laws of the State. *Exception.* Any person actually owning and occupying a single-family residence may do plumbing within without a license, provided such person secures a permit and the work fully conforms with all code requirements including workmanship, design and materials. Any person assisting such owner shall be a licensed master plumber. Any plumbing shall conform to all provisions of state law, state codes, and City.

(b) Any person, before beginning active plumbing work, shall obtain a permit.

(Code 1965, §16.10(1); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 3-06, §1, 1-10-06; Ord 55-22, §1, 9-29-22)

Sec. 4-292. Plumbing fees.

(a) The following fees shall apply to plumbing permits, and no permit shall be valid until the appropriate fee has been paid:

- (1) The amount of the permit fee for any plumbing, sewer or water permit shall be on file in the Office of the City Clerk;
- (2) The amount of the permit fees for residential one- (1-) and two- (2-) family buildings shall be on file in the Office of the City Clerk;
- (3) The amount of the permit fees for multifamily apartment buildings and commercial or industrial structures shall be on file in the Office of the City Clerk.
- (4) The fees in subsections (1) through (3) of this section apply to new and replacement installations. For repair work on existing installations, the permit fee shall be on file in the Office of the City Clerk.
- (5) The amount of the permit fee for manholes and catch basins installed concurrently with laterals of private main shall be on file in the Office of the City Clerk.
- (6) The amount of the permit fee for the abandonment of a septic tank or POWTS shall be on file in the Office of the City Clerk.

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- (7) The amount of the permit fee for a water well shall be on file in the Office of the City Clerk.
- (8) The amount of the permit fee for each fixture or appliance connected to the water supply or sewer, including trapped and untrapped openings in both sanitary and storm sewers, shall be on file in the Office of the City Clerk.

(b) Penalties for installation without a permit include tripling the permit fee prescribed in this section at the time when a permit is obtained. Payment of any fee mentioned in this section, however, shall in no way relieve any person of the penalties that may be imposed for violation of this article.

(c) A callback inspection charge shall be established per callback for all work requiring inspection under plumbing and sewer permit requirements. The callback inspection charge shall be on file in the office of the City Clerk. (Code 1965, §16.10(2); Ord 106-97, §1, 12-17-97; Ord 73-19, §1, 7-30-19; Ord 55-22, §1, 9-29-22; Ord 30-25, §1, 04-02-25)

Sec. 4-293. Issuance for new or relocated building.

No permit for plumbing in a new or relocated building shall be issued until:

- (1) The Inspections Supervisor is satisfied that all unused sewer and water services to the premises are sealed;
- (2) A sewer permit and building permit have been issued; and
- (3) The connection fee when required by §20-3 has been paid.

(Code 1965, §16.10(3)(a); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 55-22, §1, 9-29-22)

Sec. 4-294. Persons not eligible for permit.

No plumbing or sewer permit shall be granted to anyone who has failed to comply with this article. No permit shall be issued to any person or to any master plumber against whom an order issued by the Inspections Supervisor is pending. No permit shall be issued to any person who has been found violating or has willfully violated this article. Bad faith or unreasonable delay in the performance of any work covered by this article or failure to respond promptly to official communications shall be deemed sufficient reason for withholding permits, and the master plumber shall be held responsible for the violation of these regulations by himself or any of his employees.

(Code 1965, §16.10(3)(b); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-295. Expiration.

All permits issued under this division remain valid contingent upon continuous performance of the work named thereon. Any permit issued pursuant to this division shall be void if the authorized work is suspended or abandoned for a period of six (6) months once work has commenced. A permit will automatically expire on the sooner of completion of the work for which it was issued or two (2) years from date of issuance.

(Code 1965, §16.10(3)(c); Ord 55-22, §1, 9-29-22)

Sec. 4-296. Cancellation for violation.

The Inspections Supervisor may cancel a permit issued under this division on any job for violation of the license law or codes and ordinances, and to stop work in any case where installation is not being made in compliance with this article. (Code 1965, §16.10(3)(d); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-297. Cancellation on request of plumber or owner.

The Inspections Supervisor may cancel a permit issued under this division upon written request of a master plumber or the owner for which the work is being done; provided that acceptable arrangements shall first be made for reissuance of the permit to another master plumber for proper completion of the work. The original permit shall not be canceled until a master plumber applies for and is granted a permit to complete the work. The procedure for requested cancellation and reissuance of permits shall be as follows:

- (1) If the master plumber does not complete the entire installation for which he received a permit, he shall immediately notify the Inspections Supervisor in writing requesting cancellation and detailing the extent of the work he has done.
- (2) A person who has hired a master plumber may request cancellation in writing and shall then specify the name of the master plumber he is employing to finish the work. If the permit is for single-family owner-occupied home the owner may obtain the second permit if the work is contained to inside the building. For any exterior work, a licensed plumber shall be hired to complete the job.
- (3) Any work being performed under the initial permit shall be stopped until a subsequent permit has been issued for completion.
- (4) The original permit fee shall apply to the entire job, except that the applicable minimum permit

fee as set in the fee schedule shall be paid for the second permit. If additional work is included on the subsequent permit, such work shall be listed and any applicable fee shall apply.

- (5) If additional fixtures are roughed-in or installed before final inspection, they shall be added to the original permit on the cost-per-fixture basis. (Code 1965, §16.10(3)(e); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 55-22, §1, 9-29-22)

Secs. 4-298 – 4-315. Reserved.

DIVISION 3. PLANS

Sec. 4-316. Applicability of division.

This division shall apply to all additions and alterations exceeding ten (10) plumbing fixtures as well as to plumbing of all new buildings and shall apply to all cases where there is a change of occupancy or use of a building which requires changes to or intended use of the plumbing so as to comply with this article for that occupancy or use. (Code 1965, §16.10(9), Ord 38-02, §1, 3-25-02)

Sec. 4-317. Plans to be approved by City Inspections Division.

Plans and specifications for plumbing installation identified in Wisconsin Administrative Code SPS 382 Table 382.20-2 are required to be submitted to the City for review and approval. All non-code-complying portions of the plumbing system installed prior to complete plan approval shall be removed and replaced to comply with SPS standards. (Code 1965, §16.10(4); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 55-22, §1, 9-29-22)

Sec. 4-318. Plans to be approved by the Department of Safety and Professional Services.

No permits will be issued to commence work on any plumbing project in classifications requiring SPS approval until SPS approval is received by Inspections Supervisor. (Code 1965, §16.10(5); Ord 55-22, §1, 9-29-22)

Sec. 4-319. Compliance with approved plans required.

Actual installation shall conform with the plans approved pursuant to this chapter. Any changes to plans shall be submitted to the Inspections Supervisor for approval prior to installation. All work must also comply with the approved specifications. (Code 1965, §16.10(6); Ord 55-22, §1, 9-29-22)

Sec. 4-320. Stamping and signing of plans.

A Wisconsin registered architect, engineer or plumbing designer shall sign and seal or stamp all plans and accompanying specifications in accordance with chapter A-E 2. A master plumber may design and submit for approval plumbing plans and specifications for a plumbing system which he is to install. Each sheet of plans and specifications the master plumber submits shall be signed, dated and include his state master plumber's license number. Where more than one (1) sheet is bound together into one (1) volume, only the title sheet or index sheet need be signed and dated by the person responsible for their preparation, provided the signed sheet clearly identifies the other sheets comprising the bound volume. (Code 1965, §16.10(7); Ord 55-22, §1, 9-29-22)

Sec. 4-321. Submission of plans.

(Code 1965, §16.10(13))

All plans, preliminary or complete, shall be submitted in duplicate. Work shall not commence until written approval for the preliminary or complete plans is received from SPS or the Inspections Division. Sufficient data and information shall be submitted to allow staff to determine if the installation and its performance will meet the requirements of the State Plumbing Code. The data and information shall be a part of or shall accompany all plans submitted for review. Plans shall be examined in the order of their receipt.
(Code 1965, §16.10(8); Ord 55-22, §1, 9-29-22)

Secs. 4-326 – 4-340. Reserved.

Editor's Note: Art. V. Plumbing was repealed and recreated pursuant to Ord. No. 55-22 adopted by the Common Council on September 21, 2022 and becoming effective on September 29, 2022.

Sec. 4-322. Plan examination fees.

(a) Plan examination fees for preliminary or complete plans shall accompany the plans and specifications when submitted. If the Inspections Division determines upon review of the plans that inadequate fees were provided, the additional fee shall be provided prior to departmental approval. Written approval shall not be granted until all applicable fees have been paid.

(b) The plan examination fees shall be as established by SPS.

(c) Plan examination fees may be adjusted by ordinance.
(Code 1965, §16.10(10); Ord 176-93, §1, 10-19-93; Ord 48-94, §1, 4-6-94; Ord 118-96, §1, 12-18-96; Ord 25-12, §1, 3-7-12; Ord 55-22, §1, 9-29-22)

Sec. 4-323. Revisions.

After written approval is granted, if the approved plans are changed, a revision with applicable fees shall be submitted by the architect, engineer, designer or master plumber responsible for the design. If the method of installation differs from the approved design, an as-built drawing shall be submitted by the architect, engineer, designer or master plumber responsible for the design.
(Code 1965, §16.10(11); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 55-22, §1, 9-29-22)

Sec. 4-324. Liability for defects in work.

In granting approval of plans, specifications, products, devices or materials, the Inspections Division does not hold itself liable for any defects in construction, nor for any damages that may result from the specific installation.
(Code 1965, §16.10(12); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96)

Sec. 4-325. Copy of plans to be kept at construction site.

The architect, professional engineer, registered designer, owner or plumbing contractor shall keep at the construction site one (1) set of plans bearing the stamp of approval of the respective department.

ARTICLE VI. ELECTRICAL

DIVISION 1. GENERALLY

Sec. 4-341. Adoption of the State Electrical Code, State Statutes and other standards.

The Wisconsin Administrative Code, SPS chapters 305, 316, and 324, Wis. Stats. §101 subchapter IV and We Energies meter manuals are hereby adopted by reference and made a part of this article with the same force and effect as though set out in full in this article.

(Code 1965, §17.01; Ord 85-97, §1, 10-15-97, Ord 213-01, §1, 11-26-01; Ord 36-09, §1, 3-10-09, Ord 13-15, §1, 3-24-15 (renumbered from Sec. 3-342); Ord 71-19, §1, 7-30-19)

Sec. 4-342. Definitions.

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

Electrical work. Electrical work means and includes the installation of electrical wiring, devices and equipment for the production, modification, utilization or safeguarding of electrical energy as covered by the code adopted in §4-341. Replacement of meter socket(s), service changes and electrical panel replacements are considered electrical work.

Electrical contractor means a legal entity licensed by the State of Wisconsin under SPS 305.41.

Maintenance includes only the necessary repairs to provide the safe operation of previously installed electrical equipment.

(Code 1965, §17.03, Ord 212-01, §1, 11-26-01, Ord 48-02, §1, 4-3-02; Ord 36-09, §1, 3-10-09; Ord 27-12, §1, 3-21-12, Ord 13-15, §1, 3-24-15 (renumbered from Sec. 3-341); Ord 71-19, §1, 7-30-19)

Cross reference(s)--Definitions and rules of construction generally, §1-2, electrical distribution system in mobile home parks, §11-78.

State law reference--Electrical conservation in public buildings and places of employment, W.S.A. §101.80 et seq.

Sec. 4-343. Enforcement generally.

The electrical inspector shall enforce all the ordinances or laws relating to electrical installation, including any lawful orders issued by the Department of Safety and Professional Services or any other agency of the State; there is hereby vested in the electrical inspector the necessary power and authority to properly execute such duties. The electrical inspector may issue a citation for any violation of this chapter at any stage of the construction phase.

(Code 1965, §17.02(1); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 85-97, §1, 10-15-97; Ord 25-12, §1, 3-

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7-12, Ord 13-15, §1, 3-24-15; Ord 97-18, §1, 11-13-18)

Sec. 4-344. Authority to discontinue electrical service.

In case of emergency and where electrical currents are dangerous to life or property or may interfere with the work of the Fire Department, the electrical inspector may order all electrical currents disconnected.

(Code 1965, §17.02(2); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 36-09, §1, 3-10-09; Ord 13-15, §1, 3-24-15)

Sec. 4-345. Periodic inspection.

The electrical inspector periodically shall make thorough examinations of all the electrical wires and equipment installed in places of public use and occupancy within the City. When such wires or equipment are found to be in a dangerous or unsafe condition, he shall notify the person owning, using, operating or installing the wires or appliances to place them in a safe condition. The electrical inspector may order the discontinuance of electrical service to such defective wires or equipment until they have been repaired, removed or changed as directed by the electrical inspector, subject to the limitations of this article.

(Code 1965, §17.02(3); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 36-09, §1, 3-10-09; Ord 13-15, §1, 3-24-15; Ord 71-19, §1, 7-30-19)

Sec. 4-346. Notification for inspection; concealment of wiring.

Upon the completion of the wiring of any building or before any wiring is to be hidden from view, or prior to reconnecting of service drop or reattachment of electric meter, the person doing the wiring shall notify the electrical inspector. The electrical inspector shall inspect within two full business days following the day of notification, excluding weekends and holidays. If, upon inspection, it is found that such installation is fully in compliance with this article and does not constitute a hazard to life or property, the electrical inspector shall approve the installation and authorize concealment of such wiring or connection for electrical service. If the installation is not strictly in accordance with this article, he shall require the person installing the wiring to remove all hazards and make the necessary changes or additions as soon as practicable. Concealment of electrical work before inspection or failure to comply with the order of the electrical inspector shall constitute a violation of this article. A contractor or his employee, or an owner doing his own work as permitted by Sec. 4-392 shall be present for the final inspection. Nothing under this section shall prevent enforcement of this section under Secs. 4-24, 4-343, or any other applicable section.

Failure to notify the electrical inspector prior to concealing the electrical wiring nullifies the residential property owner exemption under Sec. 4-392 and

§101.862(4)(a). As a result, the residential property owner shall hire a licensed electrical contractor as required in Sec. 4-391 to obtain the license and permit and perform all electrical work for which the permit is issued.

(Code 1965, §17.07; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 53-95, §1, 5-3-95; Ord 118-96, §1, 12-18-96; Ord 214-01, §1, 11-26-01; Ord 13-15, §1, 3-24-15; Ord 98-18, §1, 11-13-18)

Sec. 4-347. Reserved.

(Code 1965, §17.08; Ord 13-15, §1, 3-24-15)

Sec. 4-348. Certificate of Inspection.

No Certificate of Inspection shall be issued for work regulated under this article unless the electric light, power or heating installation and all other electric apparatus connected with it are in strict conformity with the provisions of this article.

(Code 1965, §17.09(1); Ord 13-15)

Sec. 4-349. Reserved.

(Code 1965, §17.09(2), Ord 215-01, §1, 11-26-01; Ord 36-09, §1, 3-10-09; Ord 148-11, §1, 6-7-11, Ord 71-19, §1, 7-30-19)

Sec. 4-350. Review of condemnation order.

When the electrical inspector condemns all or part of the electrical installation in any building, the owner, within five (5) days after receiving written notice from the electrical inspector, may file a petition in writing for review of the action of the electrical inspector to the chairman of the Board of Building Inspection in accordance with §4-26.

(Code 1965, §17.10; Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 36-09, §1, 3-10-09; Ord 13-15, §1, 3-24-15)

Sec. 4-351. Liability for defects in work.

This article shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing or repairing any electrical equipment for damages to anyone injured or any property destroyed by any defect therein. The City and its elected or appointed officials shall not be held as assuming any liability by reason of this article, the inspection authorized in this article, or the certificate issued.

(Code 1965, §17.11)

***Editor's Note:** Division 2, Board of Electrical Examiners was repealed as part of Ord 36-09.

Secs. 4-352 – 4-390. Reserved.**DIVISION 2. LICENSE****Sec. 4-391. Required.**

No person, either individually, as a member of a firm, or as an officer or employee of a corporation, shall conduct the business of electrical wiring, electrical construction or contracting, unless such person has a license as required by Wis. Stats. §101.862

(Code 1965, §17.05(1)-(3); Ord 50-94, §1, 4-6-94, Ord 216-01, §1, 11-26-01, Ord 65-07, §1, 3-27-07; Ord 36-09, §1, 3-10-09; Ord 13-15, §1, 3-24-15; Ord 71-19, §1, 7-30-19)

Sec. 4-392. Exemptions.

As allowed under Wis. Stats. §101.862(4)(a), a residential property owner may perform electrical work without a license in a dwelling which the individual owns and occupies as long as the work is being conducted in a single-family dwelling. In the case of installing, replacing, or repairing service equipment, solar photovoltaic installations, or electrical work performed on a residential property which is not a single-family owner-occupied dwelling, the electrical work shall be performed by a licensed electrical contractor, meeting all the requirements of SPS 305.41 as amended from time to time. A Wisconsin licensed electrician is allowed to install, replace, or repair the service equipment and install, replace, or repair a solar photovoltaic system on a single-family dwelling which is owned and occupied by said electrician and an electrical contractor license is not required to perform such work. The owner of the property must procure a permit prior to starting any electrical work. The property owner may not procure a permit on behalf of an electrical contractor or another individual. A property owner meeting the same eligibility requirements listed in this section may also wire accessory structures associated with the single-family dwelling provided the accessory structures are located on the same parcel as the single-family dwelling.

(Code 1965, §17.05(6); Ord 13-15, §1, 3-24-15; Ord 99-18, §1, 11-13-18; Ord 71-19, §1, 7-30-19; Ord 36-21, §1, 9-1-21; Ord 110-25, §1, 08-20-25)

Secs. 4-393 – 4-415. Reserved.

(Ord 13-15, §1, 3-24-15 (repealed sections 4-393 – 4-397))

BUILDINGS AND BUILDING REGULATIONS

DIVISION 3. PERMITS

Sec. 4-416. Application; issuance.

The Inspection Department shall issue permits for all electrical installations to the licensed electrical contractor in charge for light, heat or power upon filing of proper application, which shall be made on forms furnished by the Director. The permit application shall describe the nature of the work as well as such other information as may be required for inspection. Permits shall be issued prior to the start of any electrical work. No permit shall be required for repairs necessary for the proper maintenance of an existing installation, with the exception of service changes and panel/meter changes. Electrical permits are required for demolition of any part of an electrical system. The electrical inspector may require the applicant to furnish additional plans and specifications covering the work to be done in addition to the items that are required in (1) and (2) of this section.

- (1) **A photometric study:** Where emergency lighting is required, modified or where exit paths have changed, a photometric plan is required. Illumination levels shall be noted on the study using the point-to-point method having a maximum spacing of two feet on center.

- (2) **Photovoltaic (PV) Systems:** Requirements as listed in the "Photovoltaic System Permit Requirements" handout.

(Code 1965, §17.06(1); Ord 32-92, §1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 66-07, §1, 3-27-07; Ord 13-15, §1, 3-24-15; Ord 71-19, §1, 7-30-19)

Sec. 4-417. Reserved.

(Code 1965, § 17.06(2); Ord 85-97, §1, 10-15-97; Ord 25-12, §1, 3-7-12; Ord 13-15, §1, 3-24-15)

Sec. 4-418. Electrical fees.

(a) **Generally.** Permit fees for the installation of wiring and electrical equipment shall be as provided in this section.

(b) **One- and two-family dwellings.** The amount of the permit fee for one- (1-) and two- (2-) family dwellings (new construction and additions) shall be on file in the Office of the City Clerk.

(c) **Multiple-family buildings.** The amount of the permit fee for multiple-family buildings (new construction and additions) shall be on file in the Office of the City Clerk.

(d) **Commercial or industrial buildings.** For commercial or industrial buildings (new construction and additions) and alterations to all existing commercial buildings, the amount of the permit fees shall be on file in the Office of the City Clerk.

(e) **Change of service.** The fee for change of service shall be on file in the Office of the City Clerk.

(f) **Photovoltaic (PV) systems.** The fee for a PV system shall be on file in the Office of the City Clerk.

(g) **Penalty for commencing work without permit.** The fee for installation of wiring or electrical equipment without a permit shall be triple the permit fee prescribed in this section when a permit is obtained. Payment of any fee mentioned in this subsection shall in no way relieve any person of the penalties that may be imposed for violation of this Article.

(h) **Reinspection.** A callback inspection fee may be charged each time a reinspection is necessary due to failure to correct, faulty, defective or incomplete work identified during a prior inspection. The callback inspection charge shall be on file in the office of the City Clerk.
(Ord 31-25, §1, 04-02-25)

(i) **Plan review.** The fee for plan review shall be on file in the Office of the City Clerk.

(j) **Data and communication wiring.** The fee for data and communication wiring shall be on file in the Office of the City Clerk.
(Code 1965, § 17.06(3)(a)-(f), (h), (i); Ord 106-97, §1, 12-17-97, Ord 218-021, §1, 11-26-01; Ord 67-07, §1, 3-27-07; Ord 13-15, §1, 3-24-15; Ord 71-19, §1, 7-30-19)

Sec. 4-419. Use of license to obtain permit for another.

It shall be unlawful for any licensed electrical contractor or person with a master's license to allow the use of said license, directly or indirectly, for the purpose of obtaining local electrical permits for others.

(Code 1965, § 17.06(3)(g); Ord 13-15, §1, 3-24-15)

Sec. 4-420. Temporary installations.

Upon applying for an electrical permit for temporary work, a specified period of time for which such wiring is to remain in service must be stated. Service shall be cut off at the end of the time period as detailed in the State Electrical Code. All exterior temporary electrical equipment and material shall be immediately removed from the property after the allowed time period. Any temporary electrical equipment or material left after the allowed time period may be considered construction debris and prohibited as a public nuisance.

(Code 1965, § 17.06(4); Ord 71-19, §1, 7-30-19)

Secs. 4-421 – 4-474. Reserved.

DIVISION 3. LICENSE

Sec. 4-475. Adoption of the Wisconsin State Heating, Ventilating, and Air Conditioning Code.

(a) The Wisconsin State Heating, Ventilating, and Air Conditioning Code, Wisconsin Administrative Code SPS Chs. 323 and 364, and the National Fuel Gas Code, NFPA 54, as amended from time to time, are hereby adopted and incorporated by reference as though fully set forth herein. (Ord 32-25, §1, 04-02-25)

Editor's Note: Article VII. Mechanical (Board of Heating Examiners) was repealed in its entirety by Ord. 66-21, adopted September 1, 2021.

Sec. 4-476. Required.

(a) **Generally.** No person shall engage in the business of installation, servicing, repairing or cleaning of heating, ventilating or air conditioning equipment without first obtaining a license therefore as required in this Division.

(b) **Firms, partnerships and corporations.** A firm, partnership or corporation may perform or contract to perform the work described in subsection (a) of this section so long as it employs a person licensed under this Division who shall have immediate supervision of such work. If the licensee ceases to be employed by such firm, partnership or corporation, a new licensee shall be employed within sixty (60) days.

(c) **Exemption for homeowners.** A residential property owner may perform the mechanical work described in subsection (a) of this section in his own dwelling, which he owns or occupies, without being a registered contractor. (Code 1965, §18.01(1); Ord 176-93, §1, 10-19-93; Ord 33-25, §1, 04-02-25)

Secs. 4-477 – 4-495. Reserved.

(Code 1965, §18.01(2); Ord 32-92, § 1, 3-18-92; Ord 174-93, §1, 10-19-93; Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 56-09, §1, 4-28-09; Ord 34-25, §1, 04-02-25 (repeal Sec. 4-477 through Sec. 4-480))

DIVISION 4. PERMITS

Sec. 4-496. Required.

(a) ***Permit required.*** No person shall install within the City any furnace, boiler, air conditioner, fireplace, or woodburning stove and associated piping, or commence any other HVAC work in any structure subject to this article and/or any applicable provisions of the Wisconsin Administrative Code incorporated into this article, without first obtaining a permit for said work from the Inspection Division. In addition to any plans and specifications otherwise required under this article, the Inspection Division may require additional information consistent with their duty to review such plans prior to issuing permits under this section.

(b) ***To whom issued.*** Permits shall only be issued to a licensed contractor or the owner of a residential property, who resides in that property at time of application. Permit fees shall be nontransferable.

(c) ***Application.*** An application for an HVAC permit shall be filed with the Inspection Division on a blank form to be furnished for that purpose. The application shall include the name, phone number, and email address of the applicant and shall state that the applicant will be bound by and subject to the rules and regulations of the State of Wisconsin and the ordinances of the City of Appleton.
(Code 1965, §18.02(4); Ord 38-25, §1, 04-02-25)

Sec. 4-497. Heating permit fees.

(a) ***Where work requires a permit.*** Heating, ventilation and air conditioning permit fees shall be on file in the office of the City Clerk.

(b) ***Reinspection.*** A reinspection charge shall be established per callback for all work requiring inspection under mechanical permit. The reinspection charge shall be on file in the office of the City Clerk.

(c) ***Penalty for commencing work without permit.*** The fee for installation of any heating, ventilating or air conditioning unit without a permit shall be triple the permit fee prescribed in this section when a permit is obtained. Payment of any fee mentioned in this subsection shall in no way relieve any person of the penalties that may be imposed for violation of this article.
(Code 1965, §18.02(2); Ord 106-97, §1, 12-17-97; Ord 38-25, §1, 04-02-25)

Sec. 4-498. Reserved.

(Code 1965, §18.02(1); Ord 40-25, §1, 04-02-25 (repealed))

Sec. 4-499. Use of license to obtain permit for another.

No licensee under this article shall take out a permit for work to be done by another contractor.
(Code 1965, §18.02(3); Ord 176-93, §1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 41-25, §1, 04-02-25)

Secs. 4-500 – 4-515. Reserved.

DIVISION 5. INSTALLATION STANDARDS

Sec. 4-516. Forced warm air winter air conditioning.

The term “forced warm air winter air conditioning system”, when used in this article, means one (1) or more air heating units within individual housing or within one (1) common housing, one (1) or more motor-driven blowers, smoke or vent pipes, individual leader pipes or truck line systems, or both, with necessary control dampers for supply and return air, automatic controls, registers, face and grilles, and with provision for other appurtenances such as filters, air washes, ozonators, humidifiers and the like as may be desired.

(Code 1965, §18.05, Ord 101-02, §1, 7-9-02; Ord 56-09, §1, 4-28-09)

Sec. 4-517. Perimeter heating.

The term “perimeter heating”, when used in this article, means a system of heating wherein the warm air is circulated to registers located on the outside walls at or near the floor of the structure heated.

(Code 1965, §18.07, Ord 101-02, §1, 7-9-02; Ord 56-09, §1, 4-28-09)

Secs. 4-518 – 4-520. Reserved.

Sec. 4-521. Electric heating.

Electric heating, as applies to this article, covers good installation procedures, central boilers, furnaces, heat pumps and the like. Electric baseboard radiation and resistance heating equipment may be sold by contractors licensed under this article, but all electrical work and electrical permits must be by a licensed electrical contractor. All resistance heating equipment must be installed to comply with manufacturer's recommendations.

(Code 1965, §18.09)

Sec. 4-522. Oil burners and oil burner equipment for single- and two-family residences.

(a) **Definitions.** The term “oil burner”, when used in this section, shall mean any device, for use in connection with a heating system, designed to burn fuel oil having a flash point of one hundred (100) degrees Fahrenheit or higher as determined by the tag closed tester in accordance with the method of test adopted by the American Society for Testing Materials (ASTM designation D56-21) and having a fuel tank or container with a capacity of more than ten (10) gallons connected thereto. The term “oil burner equipment” shall mean the oil burner and all tanks, piping, pumps, control devices and accessories used in connection therewith. This section shall not apply to portable burners not requiring connection to a flue, such as oil stoves, oil heaters and oil lamps equipped with a wick or a mechanical device, the movement of which is essential to flame adjustment.

(b) **Approval standards.** The approval of oil burners, fuel oil, use of nonautomatic burners, gravity feed to oil burners, pressure tanks, underground tanks, tanks inside buildings, tank construction, tank vents, tank fill and overflow pipes, gauges, pumps, piping valves, heating oil, tests of tank covering, burner controls modifications, fireproofing and all other installation details shall conform with the specifications set forth in this article and in NFPA No. 31, *Installation of Oil Burning Equipment, of the National Board of Fire Underwriters*.

(c) **Air supply.** Fresh air must be supplied to any automatic fired heating unit where the unit does not have any other means of receiving air to the burner. All oil burning installations must have a barometric draft stabilizer properly installed.

(d) **Fuel oil tanks.**

- (1) Inside fuel oil tanks cannot be more than two hundred seventy-five (275) gallons in capacity, but two (2) such tanks may be connected with a three-way valve. Any tank larger in size is to be enclosed by a masonry type wall not less than four (4) inches thick. No tank may be more than five hundred (500) gallons in capacity.

- (2) Where a fuel line crosses the floor, only copper tubing is to be used and the tubing must be buried in the floor or properly protected. Fuel oil tanks located in the basement must be five (5) feet five (5) inches from the point of the heating unit or burner. Fill pipe is to be two-inch pipe and vent pipe is to be one-and-one-quarter (1¼) inch pipe.
- (3) Every fuel oil tank must be supplied with a proper size oil filter unless the oil burner does not require a filter.
- (4) Every fuel oil tank installed inside must be supplied with a tank whistler one and one-fourth (1¼) inches in size and a fuel oil gauge.
- (5) All fuel oil fill and vent pipes are to be vented to the outside of the building and may not be installed in garages. Outside fuel oil tanks of over fifty-gallon capacity must be buried according to the flammable liquids code of the state industrial commission. No tank over fifty (50) gallons in capacity may be installed above ground unless there is a masonry wall at least four (4) inches thick and on a concrete footing of at least six (6) inches.
- (6) Oil tanks inside using an overhead system to the burner must use a return line system (two-pipe system).

(Code 1965, §18.10; Ord 56-09, §1, 4-28-09)

Sec. 4-523. Reserved.

(Code 1965, §18.11, Ord 101-02, §1, 7-9-02)

Sec. 4-524. Gas-fired equipment.

(a) **Generally.**

- (1) The purpose of this section is to provide minimum standards for the design and installation of gas-fired equipment and associated piping. All gas space heating equipment installed in the City is subject to the inspection and approval of the City Inspections Division, which may order the installer or the gas company to disconnect any equipment which does not meet the requirements to this article, and no person shall reconnect the equipment until authorized by the Inspections Division to do so.
- (2) Gas companies may discontinue or refuse to supply for any gas piping or equipment which is in violation of this article or otherwise considered to endanger life or property, provided that the gas company shall immediately give notice of discontinuance to the Inspections Division and the owner or occupant of the building or premises where such gas supply is discontinued or refused. In all cases where the supply of gas has been discontinued for safety reasons, the gas shall not again be supplied until authorized by the Inspections Division.
- (3) Gas appliances shall not be installed in any location where flammable vapors are likely to be present unless the design, operation and installation are such as to eliminate the possible ignition of the flammable vapors.
- (4) Every appliance shall be located so that it will be readily accessible for operation and servicing.
- (5) Gas appliances shall be adequately supported and so connected to the piping as not to exert undue stress on the connections.
- (6) Every gas appliance installed shall be properly adjusted by the person making the installation, and no such appliance, following the installation, shall be left connected to the gas piping unless every reasonable precaution has been employed to ensure safe operation of the burners and proper combustion of the gas, due attention being given to draft conditions and ventilation.
- (7) In no case shall an appliance be adjusted to pass a greater amount of gas than the minimum nameplate rated capacity.

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- (8) No person shall, without the approval of the Inspections Division, display, sell, barter, replace, offer for sale, lease, deal in, supply, rent, donate, connect or install within the City any device purporting to reduce gas consumption when such device is intended as an adjunct or addition to a gas appliance or is suspended above or will wholly or partially enclose any burner of a gas appliance in such a manner as to impair the combustion of the gas issuing from the burner.
- (9) The requirements of this article are minimum requirements and any questions concerning the safe installation of gas burning equipment which is not specifically covered in this article shall be resolved in accordance with the American Standard entitled *Installation of Gas Appliances and Gas Piping*, number Z, 21.30, latest edition and supplements, available from the American Gas Association or from the local gas distributing company.

(b) ***Design and conversion of central heating furnaces.***

- (1) All new gas-fired central heating equipment of either design type or conversion type shall be approved and listed by the American Gas Association Laboratories or the Underwriters Laboratories, Inc., or some other approved agency. The manufacturer's name, model and BTU input shall be shown on a permanent marker attached to the furnace or boiler. The manufacturer's operating instructions shall be securely attached in a conspicuous location on or near the heating plant.
- (2) No person shall install used central heating equipment unless a permit has been issued authorizing the installation.
- (3) A central heating boiler or furnace shall be erected in accordance with the manufacturer's instructions and shall be installed on a firm, level, fire-resistive foundation unless listed for installation on a combustible floor or the floor is protected in an approved manner.
- (4) Central heating boilers and furnaces shall be installed with clearances not less than specified in accordance with their listings. Suitable precautions should be taken in accordance with prescribed practices whenever it is necessary to install a vent near combustible materials.
- (5) Furnaces of the revertible flue type shall be designed or modified to prevent the

accumulation of gas in any part thereof. All gas-fired units, either design or conversion, must have an escape door to allow pressure to escape. One- (1-) inch steel pipe is to be fastened to the radiator (seal joint) at one (1) end and the other end is to terminate in breaching or a chimney.

- (6) The furnace and chimney must be cleaned. The chimney must be examined to determine if a liner is required.
- (7) Central heating boilers and furnaces on natural gas shall have a manual main shutoff valve provided ahead of all controls three (3) to five (5) feet above the floor for shutting off the main burner gas.
- (8) A union connection shall be provided downstream from the main manual shutoff valve to permit removal of the controls.
- (9) All shutoff devices installed for use on liquefied petroleum gas furnaces and boilers shall be designed to shut off the gas supply to both the main burner and the pilot burner when the pilot flame is extinguished.
- (10) A handle is required on the main shutoff valve.
- (11) Gas-fired steam and hot water boilers shall be provided with approved automatic devices to shut down the burner in the event of undue pressure or low water in a steam boiler or overheating in a hot water boiler.

(c) ***Room heaters.***

- (1) A room heater is a freestanding type of circulation heater installed in the room or area which it is intended to heat.
- (2) A room heater shall be placed so as not to cause a hazard to walls, floors, curtains, furniture, doors when open, and the like, and to the free movements of persons within the room. Appliances designed and marked "For use in incombustible fire-resistive fireplace only" shall not be installed elsewhere. Room heaters shall be installed with clearance not less than specified in accordance with their listings. In no case shall the clearance be such as to interfere with the requirements of combustion air and accessibility.

(d) **Floor furnaces.** Floor furnaces are not permitted. A floor furnace is that type of furnace that is installed in the floor with no chance to work on the unit under or around the unit.

(e) **Recessed wall heaters.**

- (1) Recessed heaters may be installed in combustible construction. Recessed heaters should be installed in accordance with the manufacturer's instructions.
- (2) The installation of recessed heaters shall be such as to make them accessible for cleaning of heating surfaces, removal of burners, replacement of sections, motors, controls, filters and other working parts, and for adjustment and lubrication of parts requiring such attention. Panels, grilles and access doors which must be removed for normal servicing operations shall not be attached to the building construction.

(f) **Duct furnaces.**

- (1) Gas-fired duct furnaces shall be installed with clearances in accordance with their listings. In no case shall the clearance be such as to interfere with the requirements for combustion air and accessibility.
- (2) The ducts connected to or enclosing duct furnaces shall have removable access panels on both upstream and downstream sides of the furnace, unless all controls are accessible from the outside.
- (3) The controls and draft hoods for duct furnaces shall be located outside the ducts. The draft hood shall be located in the same enclosure from which combustion air is taken.
- (4) Circulating air shall not be taken from the same enclosure in which the furnace is located.
- (5) Duct furnaces when used in conjunction with an air conditioning system shall not be located down-stream from the evaporator coil.
- (6) A duct furnace shall be erected and firmly supported in accordance with the manufacturer's instructions.
- (7) The installation of duct furnaces shall be such as to make them accessible for cleaning the heating surfaces, removal of burners, replacement of sections, controls, draft hoods

and other working parts, and for adjustment of parts requiring such attention.

(g) **Unit heaters.** Suspended type gas-fired unit heaters shall be safely and adequately supported with due consideration given to their weight and vibration characteristics. The control side of a unit heater shall be spaced not less than eighteen (18) inches from any wall or partition.

(h) **Gas-fired water heaters.**

- (1) All gas-fired water heaters shall be vented into an approved chimney or vented with an approved type B metal vent, extending through the roof and capped with an approved type top to prevent back drafts.
- (2) All natural gas-fired automatic water heaters shall be equipped with an automatic shutoff device which will shut off the gas supply to the main burner whenever the pilot flame is extinguished in accordance with requirements of the American Gas Association or other recognized testing authority.
- (3) All shutoff devices installed for use on liquefied petroleum gas-fired water heaters shall be designed to shut off the gas supply to both the main burner and the pilot flame when the pilot flame is extinguished.
- (4) All automatic control devices shall be located so as to be accessible for service work and the location of the heater in respect to adjacent walls and equipment shall allow easy access to all parts which may require repair or adjustment. (6) Manually operated shutoff valves shall be installed in the gas supply line near the heater and three (3) to five (5) feet above the floor with a proper handle.
- (5) The water pipe for an automatic gas-fired water heater shall be equipped with a pressure and temperature relief valve.
- (6) Gas-fired water heaters shall not be installed in bathrooms, bedrooms, or small unventilated rooms.
- (7) Water heaters shall be located as close as practicable to the flue or vent.
- (8) Water heaters shall be connected in a manner to permit observation, maintenance and servicing.

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- (9) No water heater shall be installed in a closed system of water piping unless an approved water pressure relief valve is provided.
- (10) The installation and adjustment of temperature, pressure, and vacuum relief valves or combinations thereof, and automatic gas shutoff valves shall be in accordance with the requirements of the Inspections Division or with the manufacturer's instructions accompanying such devices.

(i) ***Gas flues and vents.***

- (1) All water heaters, all types of central heating equipment, all enclosed fire zone circulating heaters and unit heaters installed shall be connected to adequate vents.
- (2) All flue pipes from the heating unit to the chimney must be of standard galvanized iron of not less than 24-gauge or approved type B vents.
- (3) The installation of a cap or other device on the outlet of an appliance vent which in any way obstructs the free passage of the products of combustion to the outside atmosphere is prohibited.
- (4) In the underfloor area, the minimum pitch upward of lateral runs of vents from the appliance must be at least one-half inch per foot.
- (5) The installation of dampers or stops in the vent pipe attached to any appliance equipped with a draft diverter is prohibited.
- (6) No manually operated damper shall be placed in any flue or vent connector. Fixed baffles ahead of draft hoods are not classified as dampers.
- (7) A flue or vent connector shall not be connected to a chimney flue having a fireplace opening unless the opening is permanently sealed.
- (8) The flue or vent connector shall be installed so as to avoid short turns or other constructional features which would create excessive resistance to the flow of flue gases.
- (9) Type B vents shall be used only with approved gas appliances which produce flue gas temperatures not in excess of five hundred fifty degrees (550°) Fahrenheit.

- (10) Every vented appliance, except incinerators, and units designed for power burners or for forced venting, shall have a draft hood. If the draft hood is not a part of the appliance or supplied by the appliance manufacturer, it shall be supplied by the installer and in the absence of other instructions shall be the same size as the appliance flue collar unless not recommended by manufacturer.

- (11) A gas appliance flue or vent connector and a smoke pipe from an appliance burning another fuel may be connected into the same flue through separate openings, or may be connected through a single opening if jointed by a "Y" fitting, located as close as practical to the flue. If two (2) or more openings are provided into one (1) flue they should be at different levels. Incinerators require special high temperature chimneys.

- (12) In order to promote better draft where more than one (1) gas appliance flue or vent connector is connected to a flue or vent, the connections should be made at different levels.

(j) ***Gas piping.***

- (1) All pipe or tubing used for the installation, extension, alteration or repair of any house gas piping shall be of standard weight and standard dimension, and such pipe or tubing shall either be new or have been used previously for no purpose other than the conveying of gas. All such pipe shall be free from internal obstructions, splits, or other imperfections which render it unfit for the purpose intended, and the ends thereof shall be properly reamed.
- (2) The use of cast iron fittings is prohibited.
- (3) Threaded joints shall be made up with any approved pipe thread compound.
- (4) All gas piping inside buildings must be securely strapped to joists or the ceiling with metal straps or approved wire hangers.
- (5) When installing gas piping which is to be concealed, unions, tubing fittings, running threads, right and left couplings, bushings and swing joints made by combination of fittings shall not be used.
- (6) Semirigid gas tubing may be used to connect space heating appliances, provided it is of adequate capacity and approved.

- (7) Gas piping in solid floors such as concrete shall be laid in channels in the floor suitably covered to permit access to the piping.
- (8) When used on liquefied petroleum gas, the joints on seamless copper, brass, steel or nonferrous gas tubing shall be made by means of approved gas tubing fittings or brazed or approved flared fittings with a material having a melting point exceeding one thousand degrees Fahrenheit (1,000°).
- (9) Gas pipe or tubing inside any building shall not be run in through an air duct, clothes chute, chimney or flue, ventilating duct, dumbwaiter, or elevator shaft, except a proper duct for the purpose.
- (10) Each outlet, including a valve or cock outlet, shall be securely closed gastight with a positive plug or cap if the appliance is not to be connected at that time. When an appliance is removed from an outlet and the outlet is not to be reconnected at that time, it shall be securely closed gastight. In no case shall the outlet be closed with tin caps, wooden plugs, corks, and the like.
- (11) When condensation of liquefied petroleum gas may occur, the piping shall be pitched back to the container, or suitable means shall be provided for vaporization of the condensate. Compounds used in making up joints shall be resistant to the action of LP gases.

(k) **Gas storage tanks.** All outside storage tanks for the storage of liquefied petroleum gas that exceed five hundred (500) pounds capacity shall be on a solid, nonflammable footing and gravel or stone base area which extends beyond the tank in all directions for a minimum distance of two (2) feet. All such storage tanks shall be located per NFPA 58. (Code 1965, §18.12; Ord 176-93, §1, 10-19-9, Ord 101-02, §1, 7-9-02; Ord 56-09, §1, 4-28-09)

Secs. 4-525 – 4-540. Reserved.

ARTICLE VIII. SWIMMING POOLS

Sec. 4-541. Purpose of article.

The purpose of this article is to provide protection and safety of individuals, provide land use controls and provide for the general health and welfare of the neighborhood.
(Code 1965, §22.05(1))

Sec. 4-542. Definition.

For purposes of this article, swimming pool means any structure, basin, chamber or tank containing or capable of containing an artificial body of water for swimming, diving or recreational bathing, having a depth of two (2) feet or more at any point.
(Code 1965, §22.05(1))

Sec. 4-543. Applicability of article.

This article shall apply to all new, remodeled, altered and relocated private swimming pools in one- (1-) and two- (2-) family residential properties in the City except that the protective enclosure requirements shall be retroactive to all existing swimming pools.
(Code 1965, §22.05(1); Ord 37-09, §1, 3-10-09)

Sec. 4-544. Existing pools.

Existing swimming pools not in compliance with the fencing or enclosure requirements of this article shall be made to comply within twelve (12) months of the adoption of this article. Existing pools that are reconstructed or relocated shall be brought into compliance with the requirements of this article at the time of reconstruction or relocation.
(Code 1965, §22.05(8))

Sec. 4-545. Penalty for violation of article.

Any person who shall violate any provision of this article shall be subject to penalty as provided in §1-16.
(Code 1965, §22.05(10))

Sec. 4-546. Permits.

(a) **Building permit.** A building permit is required for the installation, alteration or addition of a swimming pool. The permit fee shall be as provided in §4-161(8). A building permit shall be applied for and obtained prior to the installation, alteration or addition of any private residential swimming pool. The application for a permit shall be accompanied by a plot plan drawing of the premises upon which the proposed pool is to be installed. The plot plan shall show the size and shape of the lot, location and size of all buildings, structures (including fences), existing or proposed, and any other information affecting the premises. The plot plan shall be accurate and dimensioned.

(b) **Plumbing and electrical permits.** Plumbing and electrical permits are required for applicable installations for the operation of a swimming pool. Plumbing installations for the operation of a swimming pool are required to be done in compliance with state plumbing code under a plumbing permit. Electrical installations made for the operation of a swimming pool are required to be done in compliance with the Wisconsin Administrative Code, SPS 316, under an electrical permit.

(c) **Penalty for commencing work without a permit.** Failure to obtain a required plumbing, electrical, and building permits are subject to the penalties in §4-418(g), §4-292(b) and §4-161(b).
(Code 1965, §22.05(2); Ord 37-09, §1, 3-10-09; Ord 72-19, §1, 7-30-19; Ord 141-24, §1, 11-6-24)

Sec. 4-547. Variances.

The Board of Zoning appeals may grant variances and exceptions to this article as provided in the City zoning code.
(Code 1965, §22.05(9))

Sec. 4-548. Location on lot.

The swimming pool and any pool accessory building structure and any pool equipment or structure shall not exceed fifteen percent (15%) of the total lot area of the lot on which it is located. No part of the swimming pool, pool accessory structure or pool equipment or structure shall be closer than three (3) feet to any side lot or rear lot line or closer to the street than the front setback line of the main building, except that if the pool or other structure is located in the side yard closer to the street property line than the rear wall of the main building it shall not be closer than six (6) feet from the side lot line.
(Code 1965, §22.05(3))

Sec. 4-549. Protective enclosures.

(a) **Required.** All private residential swimming pools, whether of an in-ground or aboveground type, shall be enclosed with an adequate and secure fence at least forty-eight (48) inches high above adjoining grade to prevent straying into the pool area. Fence requirements as set forth in the City zoning code shall apply. Required fences shall be constructed to prohibit the passage of a six-inch sphere between fence members. Any gate installed shall be provided with self-closing and self-latching devices which shall be on the inside of the gate at least thirty (30) inches above ground level. A pool dome or pool top fencing attached to the pool to extend at least forty-eight (48) inches above the ground or a pool cover capable of supporting one hundred (100) pounds per square inch of area are acceptable substitutes for fencing. Pool covers shall be fixed securely in place at all times when the pool is not supervised by a responsible person.

(b) **Exception.** Above grade pools with walls that are at least forty-eight (48) inches high at all points around the pool or have platforms and railings that are forty-eight (48) inches or more in height above grade with a railing space opening no greater than four (4) inches are not required to be enclosed as provided in subsection (a) of this section, but the ladders and stairways providing access to the pool shall be adequately secured to prevent entry whenever the pool is not in use.
(Code 1965, §22.05(4); Ord 37-09, §1, 3-10-09)

Sec. 4-550. Lighting.

Any area lighting for swimming pools shall be shielded to prevent the lighting of neighboring properties.
(Code 1965, §22.05(5))

Sec. 4-551. Drainage.

The draining of swimming pools shall be directed to a public storm sewer or catch basin connected to the public storm sewer. Drainage shall be controlled to prevent any adverse effect on adjoining property.
(Code 1965, §22.05(6))

Sec. 4-552. Maintenance.

All swimming pools shall be maintained in such a way as to not create a nuisance, hazard, eyesore, or otherwise result in a substantial adverse effect on neighboring properties or be in any way detrimental to public health, safety or welfare.
(Code 1965, §22.05(7))

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Licenses, Permits and Business Regulations

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***Cross reference(s)**--Destruction of license and permit applications, stubs and duplicates, §2-1; kennel license required, §3-91 et seq.; electrician licenses required, §4-391 et seq.; heating, ventilating and air conditioning license required, §4-476 et seq.; mobile home park license required, §11-46 et seq.; regulations regarding posting of advertising and other matter, §12-1; alarm systems, §12-121 et seq.; permits required for any work in public right-of-way, §16-12; permit and license required for construction or repair of sidewalks, §16-59; persons weighing or measuring or using weighing or measuring devices and systems and accessories required to be licensed, §22-36 et seq.

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

ARTICLE I. IN GENERAL

Sec. 9-1. Exemptions from chapter.

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

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

Sec. 9-2. Fraudulent advertising.

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

Secs. 9-3 – 9-20. Reserved.

ARTICLE II. LICENSES AND PERMITS GENERALLY

Sec. 9-21. Generally.

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

Sec. 9-22. Application.

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

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

Sec. 9-23. Issuance generally; display.

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

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

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

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

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.

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

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

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

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

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

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

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

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

(c) **License fee; bond and insurance.** No person shall engage in work under this section without the following conditions first being met:

- (1) The applicant shall file with the Department of Public Works a license bond in the penal sum of five thousand dollars (\$5,000.00) executed by the applicant as principal and a surety company authorized to do business in the State of Wisconsin, running in favor of the City so that in the event the City should suffer any loss or damage by any negligence, malfeasance or misfeasance in the conduct of the work performed under this section shall have the right to institute an action for recovery against the applicant and the surety upon such bond. The bond must further state that the applicant shall fully comply with all provisions of State law and City ordinances as applicable and that the applicant will save and indemnify the City against any costs,

expenses or damages which may in any way accrue against the City due to the work performed under this section, and will keep the City harmless against all liabilities, judgments, costs and expenses as a consequence of the work.

- (2) The applicant shall file with the City Clerk proof of workers compensation, automobile and general liability insurance equal to or greater than that required by the City and approved by the City's Risk Manager, and it shall be kept in full force and effect for one (1) year after the work has been completed.

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

(Code 1965, §5.13(1)--(4); Ord 7-94, §1, 1-5-94; Ord 70-09, §1, 6-9-09; Ord 91-10, §1, 6-22-10; Ord 103-16, §1, 12-13-16)

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

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

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

Secs. 9-34 – 9-50. Reserved.

ARTICLE III. ALCOHOLIC BEVERAGES***DIVISION 1. GENERALLY****Sec. 9-51. Adoption of state law.**

(a) The provisions of W.S.A. Chapter 125 relating to the sale of fermented malt beverages and intoxicating liquors, except W.S.A. §125.03, §125.04(11), §125.05, §125.10, §125.11, §125.14, §125.15, §125.56, §125.60, §125.61, §125.62, §125.66(3) and §125.69, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of the statutes, are hereby adopted and made a part of this article by reference. A violation of any such provision shall be a violation of this article. The City elects to operate under W.S.A. §125.51(3)(b).

(b) The forfeiture provisions of §125.07(4)(bs), exclusive of any operating privilege suspension, is hereby adopted and made a part of this section by reference. (Code 1965, §11.03(1); Ord 100-94, §1, 8-3-94)

Sec. 9-52. Operation of premises licensed for retail sales.

All retail licenses granted under this article shall be granted subject to the following conditions and all other conditions of this article, and subject to all other ordinances and regulations of the City applicable thereto:

- (1) Every applicant procuring a license thereby consents to the entry of police or other authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from the premises of all things and articles there in violation of City ordinances or state laws and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offense.
- (2) No retail licensee shall employ persons under twenty-one (21) years of age to handle alcohol, except as modified by W.S.A. §125.07(4)(bm).
- (3) No gambling or games of chance shall be permitted upon the licensed premises. Dice, slot machines, or any other devices of chance are prohibited and shall not be kept upon the premises, except those permitted by law.
- (4) No premises for which a Class "B" Fermented Malt Beverage license, "Class B" Intoxicating Liquor license, or "Class C" Wine retail license has been issued shall be permitted to remain open during the closing hours required by W.S.A. §125.32(3) or W.S.A. §125.68(4), and

the premises shall be vacated during such hours.

- (5) Each premises shall be conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used. Effective July 1, 2017, taverns serving no food shall obtain a municipal health permit from the Health Department on an annual basis, pursuant to Sec. 9-190. Additionally, the Board of Health may make additional reasonable rules for the sanitation of all places of business possessing licenses under this article. Such rules or regulations may be classified and made applicable according to the class of business conducted. All such rules and regulations shall have the same force as this article and infraction thereof may be punished as a violation of this article.
(Ord 78-16, §1, 11-8-16; Ord 10-21, §1, 4-7-21)
- (6) A violation of this article by a duly authorized agent or employee of a licensee or permit holder shall constitute a violation by the licensee or permit holder.
- (7) Class "A" retail licensees shall not sell, dispense, give away or furnish, directly or indirectly, fermented malt beverages for consumption off the premises between 12 midnight and 8:00 a.m., Central Standard Time. "Class A" retail licensees shall not sell, dispense, give away or furnish, directly or indirectly, intoxicating liquors including wine for consumption off the premises between 9:01 p.m. and 8:00 a.m., Central Standard Time.
- (8) Class "B", "Class B" or "Class C" retail licensees shall not sell, dispense, give away or furnish directly or indirectly fermented malt beverages or intoxicating liquors for consumption off the premises between 12:01 a.m. and 8:00 a.m., Central Standard Time.
- (9) **Abandonment or non-use.** Any licensee granted or issued a license to sell alcohol beverages that abandons such business shall forfeit any right or preference the licensee may have to the holding or renewal of such license. Abandonment shall be sufficient grounds for revocation or non-renewal of any alcohol beverage license. In this section "abandon" and "abandonment" shall mean a continuing refusal or failure of the licensee to use the license for the purpose or purposes for which the license was granted by the city council for a period of one (1) year. The Common Council may, for good cause shown, extend such period.

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(10) A retail fermented malt beverage, intoxicating liquor, or wine license shall not be granted to any applicant whereby the applicant had been convicted of selling alcoholic beverages without the proper retail license within the last eighteen (18) months.

(Ord 10-07, §1, 2-13-07; Ord 71-09, §1, 6-9-09; Ord 161-10, §1, 11-23-10; Ord 187-10, §1, 12-7-10; Ord 5-24, §1, 1-17-24)

Sec. 9-53. Adoption of state law regarding sale of alcoholic beverages to intoxicated persons.

W.S.A. §125.07(2) regarding the sale of alcohol beverages to intoxicated persons in violation of this article is hereby adopted by reference and made an offense punishable as a violation of this Code.

(Code 1965, §11.03(9)(a)-(c), (g), (i), (j), (l)-(n); Ord 122-91, §1, 11-6-91; Ord 98-96, §1, 11-20-96)

Sec. 9-54. Demerit point system.

(a) There is hereby established a point system for the purpose of guiding the Safety and Licensing Committee in the suspension or revocation of alcoholic beverage licenses. The number of demerit points is assigned according to the type of violation. This system is intended to identify habitually troublesome liquor licensees who repeatedly violate state statutes and/or City of Appleton ordinances and to take consistent action against such licensees.

(b) There is hereby assigned the following demerit points for each type of violation:

<u>TYPES OF VIOLATIONS</u>	<u>DEMERIT POINTS (per violation)</u>
Refusal to cooperate with Fire Chief, Police Chief or designees	100
Exceeding posted occupancy capacity	80
Exceeding posted occupancy capacity by more than 30%	150
Sale to person under age 21	80
Person under age 21 on premises	80
Sale to intoxicated person	80
False statement on application	70
Operating while license is suspended	200
Unauthorized transfer/use of license	90
Conducting unlawful business	150
No licensed bartender on premises	40

Open after hours / failure to vacate	50
After hours carry-outs	50
Gambling / Gambling paraphernalia on premises	150
Nude or semi-nude entertainer / employee on premises	150

TYPES OF VIOLATIONS

DEMERIT POINTS (per violation)

Failure to display license	25
Owner / Employee selling controlled substances	150
Illegal drug paraphernalia on premises	100
Other acts – failure to maintain order / disorderly conduct, noise complaints, etc.	45
Penalty enhancer for severe offenses	100

Enhanced penalty for conduct which

- (1) results in bodily harm to any individual;
- (2) creates a substantial risk of death or bodily harm;
- (3) involves the use of a firearm or other dangerous weapon; or
- (4) demonstrates an ongoing disregard for the requirements of state law or municipal ordinances

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DEMERIT POINTS (per violation)

Non-critical violation	25
Critical violation	80

(c) **Calculating violations.** In determining the accumulated demerit points, the date of conviction shall be used as the basis for assigning demerit points per violation. Points shall be assigned only after conviction for violations.

(d) **Suspension and revocation of license.** The Police Department shall notify the Safety and Licensing Committee of any convictions which result in the assessment of demerit points against any licensee. Following this notification, or the filing of a complaint pursuant to W.S.A. §125.12, the Committee shall hold a hearing if required by W.S.A. §125.12 or this section, and shall take the following action, after first determining the number of demerit points to be assessed against the licensee:

- (1) For demerit points totaling 25-149 within a 24-month period, a warning to the licensee of the consequences of additional violations. The licensee shall appear before the Safety and Licensing Committee and inform the Committee of the licensee's efforts to rectify the issues that caused the imposition of the demerit points.

- (2) For demerit points totaling 150-199 within a 24-month period, suspension of the license for a period of not less than ten (10) days nor more than ninety (90) days.
- (3) For demerit points totaling two hundred (200) or more within an 36-month period, revocation of the license. Whenever any license is revoked, at least six (6) months from the time of such revocation shall elapse before another license shall be granted for the same premises, and twelve (12) months shall elapse before any other license shall be granted to the person whose license was revoked.

(e) **Scope.** Nothing in this section shall be construed to conflict with, abridge or modify, the rights or procedures established for revocation or suspension of licenses in W.S.A. §125.12. Notwithstanding the requirements of this section, the Safety and Licensing Committee may require the appearance before it of any licensee at any time.

(f) **Transfer/sale of licensed business.** Upon the transfer or sale of the licensed business, all accumulated demerit points shall be canceled unless any of the following apply:

- (1) The new licensee is related to the former licensee by blood, adoption or marriage;
- (2) The new licensee held a business interest in the previous licensed business, real estate or equipment
- (3) The former licensee or an individual related to the former licensee by blood, adoption or marriage retains an interest in the business, real estate or equipment used by the business;
- (4) The new licensee's acquisition of the business did not involve an arm's length transaction consisting of an open market sale in which the owner is willing, but not obligated to sell, and the buyer is willing, but not obligated to buy.

If any of the above apply, the new licensee shall inherit the demerit points previously assessed and be subject to the penalties set forth in the code.

(Ord 29-97, §1, 4-2-97; Ord 56-98, §1, 5-20-98, Ord 126-03, §1, 7-22-03, Ord 108-04, §1, 8-10-04; Ord 72-09, §1, 6-9-09; Ord 9-22, §1, 1-19-22; Ord 10-22, §1, 1-19-22)

Editor's Note: Sec. 9-55 Quadricycles repealed via Ord 16-18, effective 2-13-18

Secs. 9-55 – 9-70. Reserved.

DIVISION 2. LICENSES

Sec. 9-71. Persons requiring license.

No person, except as provided by §9-51, shall distribute, vend, sell, offer or keep for sale at retail or wholesale, deal or traffic in, or for the purpose of evading any law or ordinance give away any intoxicating liquor or fermented malt beverage, or cause such acts to be done, without having procured a license or permit as provided in this article, nor without complying with all the provisions of this article and all statutes, ordinances and regulations of the state and City applicable thereto.

(Code 1965, §11.03(2)(a))

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

Sec. 9-72. Separate license required for each place of sale.

A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in direct connection or communication with the place where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale.

(Code 1965, §11.03(2)(b))

Sec. 9-73. Issuance for residential premises.

No license shall be issued to any person for the purpose of possessing, selling or offering for sale any intoxicating liquor or fermented malt beverage in any dwelling house, flat or residential apartment.

(Code 1965, §11.03(2)(b))

Sec. 9-74. Application.

Application for license to sell or deal in fermented malt beverages or intoxicating liquors shall be made in writing on the forms prescribed by law, shall be sworn to by the applicant as provided in W.S.A. §887.01 through §887.04, and shall be filed with the City Clerk pursuant to W.S.A. §125.51(1)(c). Application for an operator's license shall be made pursuant to W.S.A. §125.04.

(Code 1965, §11.03(5); Ord 6-24, §1, 1-17-24)

Sec. 9-75. Classes of licenses; fees.

(a) There shall be the following classes of licenses, which, when issued by the City Clerk under the authority of the Common Council, after payment of the fee, the amount of which is on file in the City Clerk's Office, shall permit the holder to sell, deal or traffic in intoxicating liquor or fermented malt beverages as provided in W.S.A. §125.25, §125.26, §125.27, §125.28 and §125.51.

- (1) Class "A" fermented malt beverage retail license.

- (2) Class "B" fermented malt beverage retail license.

- (3) "Class A" intoxicating liquor retail license.

- (4) "Class B" intoxicating liquor retail license.

- a. If the City has granted or issued a number of licenses equal to or exceeding the quota established under W.S.A. §125.51, the City may still issue a license for any of the following:

1. A full service restaurant that has seating for three hundred (300) or more persons.

- a. The principal business during all hours of operation must be that of a restaurant which serve meals that are primarily prepared individually and served to customers at their table by waitstaff.

- b. At any given time, three hundred (300) or more persons must be able to be seated for meal service.

- c. The seating area shall not include outdoor seating, any bar area or any area regularly used for entertainment.

- d. The business shall only be held out and advertised to the public as a restaurant.

- e. Any establishment representing itself as a full service restaurant under this subsection shall maintain that status throughout the license period. If the establishment does not maintain its status, the license shall be revoked or not renewed. The burden is on the license holder to provide evidence that the principal business is a full service restaurant that has seating for three hundred (300) or more persons.

2. A hotel that has fifty (50) or more rooms of sleeping accommodations and that has either an attached restaurant with seating for one hundred fifty (150) or more persons or a banquet room in which banquets

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- attended by four hundred (400) or more persons may be held.
- a. At any given time, one hundred fifty (150) or more persons must be able to be seated for meal service in any attached restaurant.
 - b. The seating area for a restaurant shall not include outdoor seating, any bar area or any area regularly used for entertainment.
 - c. Any establishment representing itself under this subsection shall maintain that status throughout the license period. If the establishment does not maintain its status, the license shall be revoked or not renewed. The burden is on the license holder to provide evidence that the principal business is a hotel that has fifty (50) or more rooms of sleeping accommodations and that the hotel has either an attached restaurant with seating for one hundred fifty (150) or more persons or a banquet room in which banquets attended by four hundred (400) or more persons may be held.
3. An opera house or theater for the performance arts operated by a nonprofit organization as defined in W.S.A. §134.695(1)(am).
- a. The sale of intoxicating beverages shall only be for consumption on the premises and only in connection with ticketed performances.
 - b. Any establishment representing itself under this subsection shall maintain that status throughout the license period. If the establishment does not maintain its status, the license shall be revoked or not renewed. The burden is on the license holder to provide evidence that the principal business is an opera house or theater for the performance of arts operated by a nonprofit organization.
- (5) Reserve “Class B” intoxicating liquor retail license.
- a. The number of reserve “class B” intoxicating liquor licenses shall be determined pursuant to W.S.A. §125.51(4)(br).
 - b. A reserve “class B” license cannot be transferred to another place or premises.
- (6) “Class C” wine retail license.
- (7) Provisional retail license.
- a. A provisional retail license may be issued by the City Clerk to a person who has applied for a Class “A”, Class “B” or “Class C” license and authorizes only the activities that the type of retail license applied for authorizes.
 - b. A provisional license may not be issued to any person who has been denied a retail license.
 - c. The provisional license expires sixty (60) days after its issuance, when a license under subsection a. is issued to the applicant or upon written notice that the Common Council denied the applicant a license, whichever is sooner.
 - d. Persons are limited to one (1) provisional license for each type of license applied for by the holder per year.
- (8) Wholesaler’s fermented malt beverage license.
- (9) Temporary Class “B” fermented malt beverage or Temporary “Class B” wine license. A single meeting license may be issued to eligible organizations pursuant to W.S.A. §125.26(6) for a fee of ten dollars (\$10.00). Said license may be issued by the City Clerk upon approval of the appropriate departments and the Safety and Licensing Committee, and after the application has been on file in the City Clerk’s office for ten (10) days.
- (10) Wine/Beer Walks
- a. A “wine walk” or “beer walk” is a single-day event at which participants are served a glass of wine or beer at multiple locations (e.g., jewelry stores, art galleries, clothing boutiques, salons, furniture stores) during their shopping visits.

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- b. A qualified organization as specified in ch. 181, Wis. Stats. may be issued a Temporary “Class B” (wine only) or Temporary Class “B” (beer) license to sponsor a wine/beer walk for a specific date and time.
- c. The license includes up to 20 Temporary “Class B” wine or Class “B” beer licenses issued to participating locations for the same date and time.
- d. No more than two (2) “wine walk” Temporary “Class B” licenses may be issued during a 12-month period.
- e. No person may serve wine after 9 p.m. on premises for which Temporary “Class B” licenses for a wine walk are issued.
- f. No person may serve beer after 12 midnight on premises for which Temporary Class “B” beer licenses are issued for a beer walk.

(11) Operator's license.

- a. An operator's license shall be valid for a two- (2-) year period and shall expire on June 30.
- b. The Clerk shall issue an identification card for operator's licenses. Lost or stolen licenses may be replaced for a fee, the amount of which is on file in the City Clerk's Office.
- c. Each new applicant or each applicant who failed to renew the license shall successfully complete an approved responsible beverage server program prior to the issuance of an operator's license, unless the applicant meets one of the requirements listed on W.S.A. §125.185(6).

(Ord 56-16, §1, 9-13-16; Ord 90-20, §1, 7-15-20)

(12) Provisional operator's license.

- a. A provisional operator's license may be issued by the City Clerk to a person who has applied for a beverage operator's license under subsection (10) above.
- b. A provisional license may not be issued to any person who has been denied an operator's license.
- c. The provisional license expires sixty (60)

days after its issuance, when a license under subsection a. is issued to the applicant or upon written notice that the Common Council denied the applicant a license, whichever is sooner.

- d. Persons are limited to one (1) provisional license per year.

(13) Temporary operator licenses.

- a. A temporary operator's license may be issued only to operators employed by, or donating their services to, a qualified organization for an event. This license may be issued by the City Clerk to a person who has applied for a temporary beverage operator's license.
- b. A temporary operator's license shall be valid for any period of one (1) day to fourteen (14) days and the period for which it is valid shall be stated on the license.
- c. No person may hold more than two (2) kinds of this license per year.

(14) Clubs as defined in W.S.A. §125.27.

(b) ***Deposit of fee; refunds.*** License fees required under this section shall be deposited with the Director of Finance at the time of application and shall be nonrefundable; except that, in the case of a Class “A” fermented malt beverage, “Class A” liquor, Class “B” fermented malt beverage, “Class B” liquor and “Class C” wine license applications, nonrefundable fees, the amount of which is on file in the office of the City Clerk, for processing and the applicable rate for publication of the application as provided in W.S.A. §125.04(3)(g) shall be required at the time of application, the remainder of the applicable license fee to be required no sooner than fifteen (15) days before issuance.

(c) All license fees for the sale of intoxicating liquor shall be deposited with the Director or Finance at least fifteen (15) days prior to the date the license is to be issued, except for those applicants seeking licenses effective July 1 of any year may make payment of such license fees in cash or by money order if such payment is made and received by the City Clerk's Office on or before June 30 or last business day, whichever is sooner, and such applicant pays a late renewal filing fee per day in an amount on file with the City Clerk for each day such license fee is not paid within said fifteen (15) days prior to issuance.

(d) ***Proration of fee.*** Licenses may be granted which shall expire on June 30 of each year upon payment of such proportion of the annual license fee as the number of

months or fraction of a month remaining until June 30 of each year bears to twelve (12). This section only applies to licenses with an annual cost in excess of one hundred dollars (\$100.00).

(Code 1965, §11.02(1)(b)(11), 11.03(3); Ord 76-90, §1, 9-5-90; Ord 91-90, §1, 10-4-90; Ord 109-90, §1, 12-5-90; Ord 74-91, §1, 8-7-91; Ord 96-91, §1, 9-18-91; Ord 82-92, §§1, 2, 8-5-92; Ord 4-93, §1, 1-6-93; Ord 8-94, §1, 1-5-94; Ord 44-01, §1, 2-12-01; Ord 163-07, §1, 12-25-07; Ord 73-09, §1, 6-9-09; Ord 35-11, §1, 2-8-11; Ord 124-12, §1, 11-27-12; Ord 7-24, §1, 1-17-24)

Cross reference(s)--Citation for violation of certain ordinances, §1-17.

Sec. 9-76. Restrictions on issuance.

(a) No license shall be granted to any person who does not meet the requirements of W.S.A. §125.04(5).

(b) No Class "B" retail license shall be granted for any premises where any other business is to be conducted in connection with the premises, except that such restriction shall not apply to a hotel, to a restaurant not a part of or located in any mercantile establishment, to a combination grocery store and tavern, to a novelty store and tavern, to a bowling alley or recreation premises, or to a bona fide club, society or lodge that has been in existence for not less than six (6) months prior to the date of filing application for such license.

(c) No retail alcohol license shall be issued to any person acting as agent for or in the employ of another, except that for Class "B"/"Class B" retail licenses this restriction shall not apply to a hotel nor to a restaurant not a part of or located in or upon the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for not less than six (6) months prior to the date of application. Such license for a hotel, restaurant, club, society or lodge may be taken in the name of an officer or manager, who shall be personally responsible for compliance with all of the terms and provisions of this article.

(d) W.S.A. §125.04(6), relating to the issuance of licenses to domestic or foreign corporations shall apply to the issuance of Class "B" fermented malt beverage and "Class B" intoxicating liquor retail licenses.

(e) No license shall be granted to any person under twenty-one (21) years of age, except as modified by W.S.A. §125.04(5)(d)2.

(f) No license shall be issued for operation on any premises upon which taxes or assessments or other financial claims of the City are delinquent or unpaid. It shall be the duty of the City Clerk to enforce this provision, in accordance with §9-23(b) of this code.

(g) No license shall be granted to or for any premise in the City wherein for a second time any of the provisions of this article or other provisions of any ordinance relating to the sale, manufacture or possession of fermented malt beverages or intoxicating liquors are violated and the violator convicted therefore, for a period of one (1) year from and after the date of such second violation.

(h) Each premises for which a Class "B"/"Class B" retail license is granted shall be connected with City water and sewage facilities and shall be properly lighted and ventilated and supplied for each sex with separate sanitary toilet and lavatory facilities equipped with running water.

(Code 1965, §11.03(4); Ord 73-91, §§1, 2, 8-7-91; Ord 74-09, §1, 6-9-09; Ord 8-24, §1, 1-17-24)

Sec. 9-77. Investigation of applicant for alcohol license.

(a) **Generally.** The City Clerk shall notify a designee of the Chief of Police, Health Officer, Fire Chief, Director of Community Development, Inspection Supervisor and the Director of Finance of each application for a retail alcohol license. These officers shall inspect or cause to be inspected each application for a retail alcohol license and the premises, insofar as the application relates to their respective departments, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall each furnish the City Clerk in writing the information derived from each investigation, accompanied by approval or disapproval as to whether a license should be granted or refused. The City Clerk shall submit this information to the Safety and Licensing Committee of the Common Council for a recommendation to the Common Council for approval or disapproval.

(b) **Renewals.**

- (1) Renewal applications must be received 15 (fifteen) days prior to the third Wednesday in June in order to be considered a renewal. Applications for renewal will not be accepted after this date.
- (2) No license shall be renewed without a reinspection of the premises and a report as originally required.
- (3) Reinspection of the premises considers the application as it relates to their respective departments, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought

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to be licensed complies with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall each furnish the City Clerk in writing the information derived from each investigation, accompanied by a recommendation as to whether a license should be granted or refused based upon the results of that investigation.

(4) Refusals to renew licenses shall comply with Wis. Stat. Ch. 125.

(Code 1965, §11.03(6); Ord 32-92, §1, 3-18-92; Ord 4-93, §1, 1-6-93; Ord 173-93, §1, 10-19-93; Ord 176-93, §1, 10-19-93; Ord 121-96, §1, 12-18-96, Ord 108-04, §1, 8-10-04; Ord 9-24, §1, 1-17-24)

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 under this division, the City Clerk shall forthwith notify the applicant 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 and shall report its recommendation to the Common Council, which shall grant or deny the license.

(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; Ord 10-24, §1, 1-17-24)

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 “A”, “Class B”, Class “B”, “Class C” license granted by the Common Council of the City of Appleton pursuant to Ch. 125, Stats.
(Ord 11-24, §1, 1-17-24)

(c) The provisions of this ordinance do not apply to the following licensed premises: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

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

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

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

ARTICLE IV. AMUSEMENTS AND ENTERTAINMENT*

DIVISION 1. GENERALLY

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

DIVISION 2. MECHANICAL AMUSEMENT DEVICES**

Sec. 9-126. Definition.

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

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

Sec. 9-127. Licenses generally.

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

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

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

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

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

Sec. 9-128. Reserved.

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

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

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

Secs. 9-130 – 9-150. Reserved.

ARTICLE V. CABLE TELEVISION SERVICE*

Sec. 9-151. Short title.

This article shall be known as the Appleton Cable Communications Ordinance.

Sec. 9-152. Purposes.

The purpose of this article is to:

- (1) Provide for the franchising and regulation of cable television systems within the City of Appleton; and
- (2) Provide for the payment of a fee and other valuable consideration to the City for the use of City streets and other public ways in the construction and operation of cable television systems and to compensate the City for costs associated therewith; and
- (3) Provide for the development of cable television as a means to improve communication between and among the citizens and public institutions of the City; and
- (4) Provide remedies and prescribe penalties for violation of this article and the franchise(s) granted hereunder.

Sec. 9-153. Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein, unless the context clearly indicates that another meaning is intended. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.
(Ord 136-88, §1, 11-2-88)

Agency means the person, department or agency designated by the City Council to act in matters related to cable television. In the absence of any specific designation by Council, the Mayor or her designate shall act as the agency.

Auxiliary services means any communications services in addition to "regular subscriber services" including, but not limited to, services for which a per-person or per-channel charge is made, pay TV, burglar alarm services, data or other electronic transmission services, facsimile reproduction services, meter reading services and home shopping services, interactive two-way services and any other service utilizing any facility or equipment of a cable

television system operating pursuant to a franchise granted under this article.

Cable television system means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service over the public right-of-way which includes video programming and which is provided to multiple subscribers within a community, but such a term does not include (1) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (2) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless such facility or facilities uses any public right-of-way; (3) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of this Act, except that such facility shall be considered a cable system (other than for purposes of §621(c)) to the extent such facility is used in the transmission of video programming directly to subscribers; or (4) any facilities of any electric utility used solely for operating its electric utility systems.

Channel is a band of frequencies, six (6) megahertz wide in the electro-magnetic spectrum, capable of carrying either one audio-visual television signal and a few non-video signals or a large number of non-video signals.

Converter means an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and with an appropriate channel selector, also permits a subscriber to view all signals delivered at designated dial locations.

Council means the Common Council of the City of Appleton or the designated committee of jurisdiction.

Federal Communications Commission or FCC means the present federal agency of that name as constituted by the Communications Act of 1934, or any successor agency created by the United States Congress.

Franchise means an initial authorization or renewal thereof (including a renewal of an authorization which has been granted pursuant to §9-155(e) of this article) issued by the franchising authority.

Franchising authority means the City of Appleton.

Franchise area means that portion of the City for which a franchise is granted under the authority of this article. If not otherwise stated in the franchise, the franchise area shall be the corporate limits of the City.

Grantee means the natural person, partnership, domestic or foreign corporation, association, joint venture or organization of any kind granted a franchise by the Council under this article and its lawful and approved successor,

transferee or assignee.

Gross revenues means all receipts derived directly or indirectly from operation or use of all or part of a cable television system franchised pursuant to this article by the grantee and its subsidiaries including, but not limited to, revenue from basic subscriber fees, premium channel fees, pay-per-view performance fees, equipment rentals and connection fees; provided, however, that this shall not include any taxes on services furnished by the grantee herein imposed directly on any subscriber or user by the state, local or other governmental unit and collected by the grantee on behalf of said governmental unit or separate revenues of affiliates of a parent company not attributable to the parent company's local cable operation.

Net profit means the amount remaining after deducting from gross revenues all of the actual, direct and indirect, expenses associated with operating the cable television system including the franchise fee, interest, depreciation and federal or state income tax.

Person means an individual, partnership, association, joint stock company, trust, corporation or governmental entity.

Public way means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkways, waterways or other public right-of-way including public utility easements or rights-of-way and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City which shall entitle the City and the grantee to the use thereof for the purpose of installing and maintaining the grantee's cable television system.

Regular subscriber service means the distribution to subscribers of signals over the cable television system the FCC requires the grantee to carry.

Schools means all public educational institutions, including elementary and secondary schools, junior colleges, colleges and universities and other educational institutions where the City and grantee jointly agree to provide service.

Subscriber means any person who pays for the regular subscriber services and/or any one or more of such other services as may be provided by the grantee's cable television system, and does not further distribute such service(s).

Two-way service means the subscriber or any other location shall have the capability to choose whether or not to respond immediately or by sequential delay utilizing any type of terminal equipment whatever, by push-button code, dial code, meter, voice, video including, but not limited to,

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audio and video, electrical or mechanically-produced signal, display and/or interrogation.

User means a person or organization utilizing a system channel or system equipment and facilities for purposes of production and/or transmission of materials, as contrasted with receipt thereof in a subscriber capacity.

Sec. 9-154. Grant of authority.

(a) **Requirement of a franchise.** No person, firm, company, corporation or association shall construct, install, maintain or operate a cable television system within the City, or within any other public property of the City, unless a franchise has first been obtained pursuant to the provisions of this article, and unless such franchise is in full force and effect. Such franchise shall not take the place of any other license or permit which may be legally required of the grantee in order to conduct such a business, or construct or install buildings, structures, facilities or equipment within the City.

(b) *Franchise applications.*

- (1) After receiving applications for a franchise, the City, after considering the legal, financial, technical and character qualifications of the applicants, may grant one or more non-exclusive franchises creating a right to construct and operate a cable television system within the public ways of the City. Franchise(s) may be granted to the applicant(s) which in the City's judgment may best serve the public interest; provided, however, no provision of this article shall be deemed or construed as to require the City to grant a franchise.
- (2) The application for an initial cable television franchise shall be submitted to the Council or its designee, on a written application form furnished by the City, and in accordance with procedures and schedules established by the City. The application form may request facts and information the City deems appropriate. Applications shall be accompanied by a nonrefundable application fee in an amount determined by the City, which amount shall be used by the City to offset direct expenses incurred in the franchising and evaluation procedures, including, but not limited to, staff time and consulting assistance.
- (3) An applicant (grantee) to whom the Council grants a non-exclusive franchise shall, in addition to the nonrefundable fee specified herein above, pay to the City at the time the grantee files the written instrument specified in §9-158(c), an amount to be determined by the

Council to be used to offset all direct, reasonable costs incurred by the City in granting the franchise not defrayed by fees forthcoming from the provisions of paragraph (2) of this section.

- (4) After passage of this article, no cable operator shall be granted a franchise by the City in which terms and conditions differ materially from those set forth in this article. In the event that the City grants a non-identical franchise to another cable operator, grantee shall have the right to comply instead with any less stringent terms and conditions of the subsequent franchise and to receive other appropriate adjustments in the event there is no economically reasonable way for the grantee to reduce its franchise requirements to less stringent levels.

Sec. 9-155. Franchise conditions.

(a) **Franchise term and non-exclusivity.** The term of an original franchise shall not be more than ten (10) years from the date the franchise is accepted by the grantee. The term of a renewed franchise shall be no more than fifteen (15) years. No franchise granted pursuant to this article shall give any exclusive right to a grantee and every such franchise shall be deemed to reserve the right to grant other franchises to use and occupy the public ways of the City for cable television pursuant to the provisions of this article.

(b) **Notice to the grantee.** Except as otherwise provided in this article, the Council shall not meet to take any final action involving the review, renewal, revocation or termination of the grantee's franchise unless the City has (1) advised the grantee in writing, at least thirty (30) days prior to such meeting, as to its time, place and purpose; and (2) published a notice, at least once, ten (10) days before the meeting in a newspaper of general circulation within the City. The cost of such notification shall be borne by the City.

(c) **Modification of franchise obligations.** The provisions of §625 of the Cable Communications Policy Act of 1984 (as it may hereinafter be modified or amended) are adopted by reference and made a part of this article with the same force and effect as though set forth herein.

(d) *Performance evaluation session.*

- (1) The Council and the grantee shall hold scheduled performance evaluation sessions within thirty (30) days of the third, sixth and ninth anniversary dates of the grantee's award of the franchise and as required by federal and state law. All such evaluation sessions shall be

open to the public. The City shall be solely responsible for notifying the grantee, in writing, at least sixty (60) days in advance, of each of the specified performance evaluation sessions. In addition, either party may request a special evaluation session.

- (2) All evaluation sessions shall be open to the public and announced by the City Council in a newspaper of general circulation in accordance with the notice requirements of paragraph (b) of this section. Grantee shall notify subscribers of all evaluation sessions by announcement on at least one (1) appropriate channel on the system between the hours of 9:00 a.m. and 9:00 p.m. for five (5) consecutive days preceding each session.
- (3) Topics which may be discussed at any scheduled or special evaluation session may include, but not be limited to, franchise fees, penalties, free or discounted services, applications of new technologies, system performance, services provided, programming offered, customer complaints, judicial and FCC rulings, line extension policies and grantee or Council rules.
- (4) During a review and evaluation by the Council, the grantee shall fully cooperate with the Council and shall provide such relevant information and documents as the Council may need to reasonably perform its review.
- (5) If at any time during its review, the Council determines that reasonable evidence exists of inadequate cable system performance, it may require the grantee to perform tests and analyses directed toward the suspected inadequacies. The grantee shall fully cooperate with the Council in performing such testing and shall prepare results and a report if requested within thirty (30) days after notice. Such a report shall include the following information:
 - a. The nature of the complaint or problem which precipitated the special tests;
 - b. What system component was tested;
 - c. The equipment used and procedures employed in testing;
 - d. The method, if any, in which such complaint or problem was resolved;
 - e. Any other information pertinent to said tests and analyses which may be required.

- f. The City may require the test to be supervised by a professional engineer not on the permanent staff of the grantee. Any expense for said supervision shall be jointly shared by the City and the grantee.

- (6) The City's right under this paragraph shall be limited to requiring tests, analyses and reports covering specific subjects and characteristics based on said complaints or other evidence when and under such circumstances as the City has reasonable grounds to believe that the complaints or other evidence require that test be performed to protect the public against substandard cable service.

(e) **Franchise renewal.** Renewal of this franchise shall be governed by applicable federal law.

(f) **Franchise revocation procedures.**

- (1) Whenever a grantee shall refuse, neglect or willfully fail to construct, operate or maintain its cable television system or to provide service to its subscribers in substantial accordance with the terms of this article and the franchise, or to comply with the conditions of occupancy of any public ways, or to make required extensions of service, or in any other way substantially violate the terms and conditions of this article, the franchise, or any applicable rule or regulation, or practices any proven fraud or deceit upon the City or its subscribers, or fails to pay timely franchise fees or other payments, such as real estate or personal property taxes dues to the City, or if a grantee becomes insolvent, or unable to or unwilling to pay its uncontested debts, or is adjudged bankrupt or seeks relief under the bankruptcy laws, then the franchise may be subject to revocation pursuant to existing rules of the Council.
- (2) In the event the City believes that grounds for revocation exist or have existed, the City shall notify a grantee, in writing, setting forth the nature and facts of such noncompliance. If, within sixty (60) days following such written notification, the grantee has not furnished reasonably satisfactory evidence that corrective action has been taken or is being actively and expeditiously pursued, or that the alleged violations did not occur, or that the alleged violations were beyond the grantee's control, the City shall thereupon refer the matter to the Common Council. Upon good cause shown as determined by the Council, the grantee shall receive an extension of the sixty- (60-) day time

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limit contained herein.

- (3) The Council shall not revoke a franchise pursuant to subparagraph 1 of this section until it has given notice to the grantee that it proposes to take such an action and the grounds therefore. In any revocation hearing held by the Council, both the grantee and the City shall be afforded fair opportunity for full participation, including the right to introduce evidence and to question witnesses. The revocation hearing shall be conducted pursuant to Wisconsin Rules of Evidence and a transcript of proceeding shall be made. Grantee shall have the right to appeal an adverse decision to a circuit court of competent jurisdiction.
- (4) A grantee shall not be subject to the sanctions of this section for any act or omission wherein such act or omission was beyond the grantee's control. An act or omission shall not be deemed to be beyond the grantee's control if committed, omitted, or caused by a corporation or other business entity, which holds a controlling interest in the grantee, whether held directly or indirectly. Further, the inability of a grantee to obtain financing, for whatever reason, shall not be an act or omission which is "beyond the grantee's control."
- (5) The termination of a grantee's rights under a franchise shall in no way affect any other rights the City or grantee may have under the franchise or under any provision of law.
- (6) Upon lawful revocation of the franchise, grantee shall be required to remove all aerial equipment or at its option to transfer, by sale or lease, its cable system to a third party within six (6) months of the Council's notification of revocation.

(g) *Franchise fee.*

- (1) The grantee, in consideration of the privilege granted under the franchise for the operation of a cable television system within the public ways of the City, and the expense of regulation pursuant to the franchise incurred by the City, shall pay to the City four percent (4%) of its annual gross receipts during the period of its operation under the franchise; or the maximum amount as may be set from time to time by controlling federal or state law, if such maximum is less than four percent (4%). Said fee may be subject to renegotiation upon agreement by both parties at such time as applicable laws and regulation permit; provided,

however, no such negotiated franchise fee shall be greater than five percent (5%) of gross receipts.

- (2) The grantee shall file with the City within thirty (30) days after the expiration of the grantee's franchise year, a gross receipts statement clearly showing the gross receipts received by the grantee during the previous franchise year, and shall simultaneously tender payment of the annual franchise fee. The grantee shall also file, upon request by the City, within one hundred fifty (150) days following the conclusion of each calendar year during which the franchise period is in effect (franchise year), an annual report prepared and audited by a certified public accountant acceptable to the City, clearly showing the yearly total gross receipts. The City, at its option, may accept an unaudited gross receipts report prepared by the grantee.
- (3) The City shall have the right consistent with the provision of §9-156 herein, to inspect the grantee's revenue records, the right of audit and the recomputation of any amounts determined to be payable under this article. Any additional amount due the City as a result of the audit shall be paid within thirty (30) days following written notice to the grantee by the City, which notice shall include a copy of the audit report. The cost of the audit shall be borne by the grantee if it is properly determined that the grantee's annual payment due the City for the preceding year is increased thereby by more than five percent (5%).
- (4) In the event that any franchise payment or recomputed amount is not made on or before the applicable dates heretofore specified, interest shall be charged from said due date at the rate of one percent (1%) per month.

(h) *Insurance; bonds; indemnity.*

- (1) Upon the granting of a franchise and within thirty (30) days following the filing of the acceptance required under §9-158(c) hereof and at all times during the term of the franchise, including the time for removal of facilities or management as a trustee as provided for herein, the grantee shall provide the City with a certificate of insurance, evidencing:
 - a. A comprehensive general liability policy indemnifying, defending, and saving harmless the City, its officers, boards, commissions, councils, agents or employees from any or all third party

claims for loss or damage for personal injury, death and property damage occasioned by the operations of the grantee under this franchise in the minimal amount of one million dollars (\$1,000,000) per occurrence, combined single limit, for bodily injury and/or property damage.

- b. A comprehensive general liability policy indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents and employees from and against all claims by any person whosever for property damage occasioned by the operation of grantee under the franchise herein granted, or alleged to have been so caused or occurred, with a minimum liability of one million dollars (\$1,000,000) for bodily injury, personal injury or death of one more persons or property damage in any one occurrence.
- c. A workers compensation and employers liability policy must carry coverage for statutory workers compensation and employers liability insurance with limits of liability insurance with limits of liability as follows: Bodily injury by accident one hundred thousand dollars (\$100,000) each accident; bodily injury by disease five hundred thousand dollars (\$500,000) policy limit; bodily injury by disease two hundred thousand dollars (\$200,000) dollars each employee. The policy must include the following coverage: occupational disease, sickness and death; broad form all states endorsement; and coverage for any liability or claim that may be incurred under U.S. Longshoremen's and Harbor Worker's Act, Admiralty (Jones) Act, and Federal Employee Liability Act.
- d. A franchise bond running to the City with good and sufficient surety approved by the City in the amount specified in the franchise, or if no amount is specified therein, then in the sum of two hundred fifty thousand dollars (\$250,000), conditioned upon the faithful performance and discharge of the obligations imposed by this article and the franchise awarded hereunder from the date thereof, including, but not limited to, faithful compliance with the construction timetable proposed by the grantee in its application as incorporated into the franchise, unless appropriate extension is approved by the Council. When regular subscriber service is

available to more than ninety percent (90%) of the occupied dwelling units within the franchise area, as described in subsection (7)(a), as certified by the agency to the Council, the amount of the bond shall be reduced to the amount specified in the franchise, or if no amount is specified therein, then to the sum of fifty thousand dollars (\$50,000). The City's right to recover under the bond shall be in addition to any other rights retained by the City under this article and other applicable law.

- e. Any proceeds recovered under the bond may be used to reimburse the City for the loss of expected payments if the franchise fee and other valuable consideration given for the grant of the franchise, and such additional expenses as may be incurred by the City as a result of grantee's failure to comply with the obligations imposed by this article and the franchise including, but not limited to, attorney's fee and costs of any action or proceeding, the cost of removal or abandonment of any property, or other costs which may be in default.
- (2) The bond and all insurance policies called for herein shall be issued by companies licensed to do business within the State of Wisconsin, and shall be in a form satisfactory to the City Attorney and shall require thirty (30) days written notice of any cancellation to both the City and the grantee. The grantee shall, in the event of any such cancellation notice, obtain, pay all premiums for, and file with the City, written evidence of the issuance of replacement bond or policies within thirty (30) days following receipt by the City of the grantee of any notice of cancellation.
 - (3) The grantee shall, at its sole cost and expense, indemnify, defend and hold harmless the City, its officials, boards, commissions, consultants, agents and employees against any and all claims, suits, causes of action, proceedings, and judgments for damage arising out of copyright infringements and damages arising out of any failure by grantee to secure consents from the owners, authorized distributors, or licensees of programs to be delivered by the grantee's cable system whether or not any act or omission complained of is authorized, allowed, or prohibited by the franchise. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as attorney fees, and shall also include the reasonable value of any services rendered by the City Attorney or

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his assistants, or any consultants, agents and employees of the City.

shall not take effect until at least thirty (30) days after notification of same is delivered to the Council.

(i) *Transfer of franchise.*

- (1) A franchise granted under this article shall be a privilege to be held in personal trust by the grantee. It shall not be assigned, transferred, sold or disposed of, in whole or in part, by voluntary sale, sale and leaseback, merger, consolidation or otherwise or by forced or involuntary sale, without prior consent of the Council expressed by resolution. Such approval shall not be unreasonably withheld, i.e. in exercising the foregoing approval authority, the City may reasonably consider the qualifications of the proposed purchaser to fulfill the lawful terms and conditions of this article, but may not impose any additional terms or conditions as a prerequisite to approval. The proposed assignee agrees to comply with all the provisions of this article and the franchise and reasonable amendments thereto, and must be able to provide proof of legal, technical, financial and character qualifications as determined by the Council.
- (2) Any sale, transfer or assignment authorized by the Council shall occur according to normal business practices and be filed with the City.
- (3) Prior approval of the Council shall be required where ownership or control of fifty percent (50%) or more of the right of control of the grantee is acquired during the term of the franchise in any transaction or series of transactions by a person or group of persons acting in concert, none of whom owned or controlled fifty percent (50%) or more of such right of control, singularly or collectively on the effective date of the franchise. By its acceptance of this franchise the grantee specifically grants and agrees that any such acquisition occurring without prior approval of the Council shall render the franchise void. Such approval shall not be unreasonably withheld by the Council.
- (4) The consent of the Council to any sale, transfer, lease, trust, mortgage or other instrument of hypothecation shall not constitute waiver or release of any of the rights of the City under this article and the franchise.

Sec. 9-156. Subscriber fees and records.

(a) All charges to subscribers shall be consistent with a schedule of fees as established by the grantee for particular service levels. Changes in the basic service fee schedule

(b) The grantee shall not, with regard to service, discriminate or grant any preference or advantage to any person based on race, creed or religion; provided, however, that the grantee may establish different service levels for different classes of subscribers, provided that the grantee not discriminate between any subscribers of the same class.

(c) The grantee shall be required to apprise in writing each new subscriber of all applicable fees and charges for providing cable television service.

(d) Except as may be otherwise provided in a franchise, a subscriber shall have the right to have its service disconnected without charge; such disconnection shall be made as soon as practicable and in no case later than thirty (30) days following notice to the grantee of same and, if requested, shall remove all of grantee's equipment from the subscriber's property. No grantee shall enter into any agreement with a subscriber which imposes any charge following disconnection of service, except for reconnection and subsequent monthly or periodic charges and payment on any delinquent account, and those charges shall be no greater than charges for new customers. This section shall not prevent a grantee from refusing service to any person because the grantee's prior accounts with that person remain due and owing.

(e) Except as may be otherwise provided in a franchise, a grantee may offer service which requires advance payment of periodic service charge for no more than one (1) year in advance subject to the conditions contained in this paragraph. A customer shall have the right, at any time, to have his/her service disconnected with a refund of unused service charges paid to the customer within thirty (30) days from the date of service.

Sec. 9-157. System operations.

(a) *Franchise areas.*

- (1) Grantee will offer service to all occupied residential dwellings without discrimination, in all areas within the City, not otherwise wired for cable service, provided, however, that grantee shall not be required to offer or extend service to any area where there are fewer than forty (40) occupied residential dwellings per cable mile.
- (2) Grantee must extend and make cable television service available to any isolated resident within or without the franchise area requesting connection at the standard connection charge, if the connection to the isolated resident would require no more than a standard one hundred fifty (150) foot aerial or buried drop line.

- (3) With respect to requests for connection requiring an aerial or buried drop line in excess of one hundred fifty (150) feet, grantee must extend and make available cable television service to such residents at a connection charge not to exceed the actual installation costs incurred by the grantee for the distance exceeding one hundred fifty (150) feet.

(b) *Systems description and service.*

- (1) The cable television system to be installed by grantee shall comply in all respects with the technical performance requirements set forth in the FCC's Rules for Cable Television including applicable amendments thereto; provided, however, that nothing contained herein shall be construed to prohibit the grantee from proposing to comply with more rigid technical performance requirements, in which case the grantee's application shall be incorporated by reference in the franchise and will be binding on the grantee. If the FCC should delete said requirements, the City hereby reserves the right to amend this article to incorporate similar standards and every franchise granted pursuant to this article shall be subject to such reserved power whether or not expressly so conditioned.
- (2) Applications for franchise shall, to the extent provided in §611 and §626, Cable Communications Policy Act of 1984, include proposals for the provision of public, educational/cultural and local government channels. Such proposals by a grantee shall be incorporated in to the franchise granted, and shall be subject to the following requirements:
 - a. The grantee shall have available equipment for local production and presentation of cablecast programs other than automated services and permit its use for the production and presentation of public access programs with thirty (30) days' notice. The grantee shall not enter into any contract, arrangement or lease for use of its cablecast equipment which prevents or inhibits the use of such equipment for a substantial portion of time for public access programming.
 - b. The grantee shall have no control over the content of access cablecast programs; however, this limitation shall not prevent the grantee from taking appropriate steps to insure compliance with the operating rules described herein; failure by the grantee to

comply with such operating rules shall constitute a violation of this article.

- c. The local government access channel(s) shall be made available for the use of local government authorities free of charge.

- (3) Grantee shall provide, without charge within the franchise area, one service outlet activated for regular subscriber service to each fire station, school, police station, public library, and such other buildings used for governmental purposes as may be designated by the City and agreed to by grantee; provided, however, that it is necessary to extend grantee's truck or feeder lines more than three hundred (300) feet solely to provide service to any such school or public building, the City or such other building owner shall have the option either of paying grantee's direct costs for such extension in excess of three hundred (300) feet, or of releasing grantee from the obligation to provide service to such building. Furthermore, grantee shall be permitted to recover, from any public building owner entitled to free basic service, the direct cost of installing, when requested to do so, more than one (1) outlet, or concealed inside wiring, or a service outlet requiring more than two hundred fifty (250) feet of drop cable; provided, however, that the grantee shall not charge for the provision of regular basic subscriber service to the additional service outlets once installed.
- (4) A grantee, and all other persons using or making use of the cable communications system(s), shall comply with all federal, state and local laws, rules and regulations regarding the exhibition, display or showing of obscene or indecent material.
- (5) At the option of the subscriber, a Grantee shall provide a device capable of locking out any premium programming video and audio signals.

(c) *Operational requirements and records.*

- (1) Grantee shall construct, operate and maintain the cable television system in full compliance with the rules and regulations, including applicable amendments, of the Federal Communications Commission and all other applicable federal, state or local laws and regulations, including the latest editions of the National Electrical Safety Code and the National Fire Protection Association National Electrical Code. The cable television system and all its parts shall be subject to by the City, and the City hereby reserves the right to review

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a grantee's construction plans prior to the commencement of construction.

- (2) Grantee shall maintain an office or customer service location within the City which shall be open and accessible to the public with adequate telephone service during normal business hours. Grantee shall employ an operator or maintain a telephone answering service twenty-four (24) hours per day, each day of the year, to receive subscriber complaints.
- (3) Grantee shall exercise its best effort to design, construct, operate and maintain the system at all times so that signals carried are delivered to subscribers without material degradation in quality (within the limitations imposed by the technical state-of-the-art).
- (4) Copies of all correspondence, petitions, reports, applications and other documents sent or received by grantee from federal or state agencies having appropriate jurisdiction in matters affecting local cable television operation shall be simultaneously furnished by the grantee to the agency.
- (5) In the case of any emergency or disaster, the grantee shall, upon request of the City, make available its facilities to the City, without costs, for emergency use during the emergency or disaster period.

(d) *Tests and performance monitoring.*

- (1) Not later than one hundred twenty (120) days after any new or substantially rebuilt portion of the system is made available for service to subscribers, technical performance tests shall be conducted by the grantee to demonstrate full compliance with the technical standards of the Federal Communications Commission. Such tests shall be performed by, or under the supervision of, a qualified registered professional engineer or an engineer with proper training and experience. A copy of the report shall be submitted to the City, describing test results, instrumentation, calibration and test procedures, and the qualifications of the engineer responsible for the tests.
- (2) System monitor test points shall be established at or near the output of the last amplifier in the longest feeder line, at or near trunk line extremities, or at the locations to be specified in the franchise. Such periodic tests shall be made at the test points as shall be

described by the City.

- (3) At any time after commencement of services to subscribers, the City may require additional reasonable tests, including full or partial repeat tests, different test procedures, or tests involving a specific subscriber's terminal, at the grantee's expense to the extent such tests may be performed by the grantee's employees utilizing its existing facilities and equipment; provided, however, that the City reserves the right to conduct its own tests upon reasonable notice to the grantee and if non-compliance is found, the expense thereof shall be borne by the grantee. The City will endeavor to arrange its request for special tests so as to minimize hardship or inconvenience to grantee or to the subscriber.
- (4) Any copies of ongoing technical maintenance tests performed by the grantee shall be retained by the grantee for by the City for one (1) calendar year after the conclusion of each year.
- (5) The City shall have the right to employ qualified consultants if necessary or desirable to assist in the administration of this or any other, section of this article. The expense of said consultants shall be borne by the City.

(e) *Service, adjustment and complaint procedure.*

- (1) Except for circumstances beyond the grantee's control such as strikes, acts of God, weather, wars, riots and civil disturbances, the grantee shall establish a maintenance service capable of locating and correcting major system malfunctions promptly. Said maintenance service shall be available at all hours, to correct such major system malfunctions affecting a number of subscribers.
- (2) A listed local telephone number shall be made available to subscribers for service calls at any time of the day or night. Investigative action shall be initiated reasonably promptly in response to all service calls, other than major outages. Corrective action shall be completed as promptly as practicable. Appropriate records shall be made of service calls showing when and what corrective action was completed. Upon request, such records shall be made available to the City for audit during normal business hours and retained in grantee's files for not less than one (1) year.

- (3) The grantee shall furnish each subscriber at the time service is installed written instructions that clearly set forth procedures for placing a service call, or requesting an adjustment. Said instructions shall also include the name, address and telephone number of the agency or other designated employee of the City and a reminder that the subscriber can call or write the agency or other designated employee for information regarding terms and conditions of the grantee's franchise if the grantee fails to respond to the subscriber's request for installation, service or adjustment within a reasonable period of time.
 - (4) In the event a subscriber does not obtain a satisfactory response or resolution to his request for service or an adjustment within a reasonable period of time, he may advise the agency or other designated employee in writing of his dissatisfaction and the agency or other designated employee shall have the authority to investigate the matter and order corrective action as may be appropriate.
 - (5) The grantee shall interrupt system service after 7:00 a.m. and before 1:00 a.m. of the following day only with good cause and for the shortest time possible and, except in emergency situations, only after cablecasting notice of service interruption at least twenty-four (24) hours in advance of the service interruption. Service may be interrupted between 1:00 a.m. and 7:00 a.m. for routine testing, maintenance and repair on any day except Saturday or Sunday, or a holiday. The service interruptions described herein do not include what is commonly referred to as "sweeping".
- (f) ***Street occupancy.***
- (1) Grantee shall utilize existing poles, conduits and other facilities whenever possible, and shall not construct or install any new, different or additional poles, conduits, or other facilities whether on the public way or on privately-owned property, until the written approval of the appropriate governmental authority, and, if necessary, of the property owner is obtained, and which approval shall not be unreasonably withheld by the municipality. However, no location of any pole or wire-holding structure of the grantee shall be a vested interest and such poles or structures shall be removed or modified by the grantee at its own expense whenever the City or other governmental authority determines that the public convenience would be enhanced thereby.
 - (2) Where the City or a public utility serving the City desires to make use of the poles or other wireholding structures of the grantee but agreement therefore with the grantee cannot be reached, the City may require the grantee to permit such use for such consideration and upon such terms as the City shall determine to be just and reasonable, if the City determines that the use would enhance the public convenience and would not unduly interfere with the grantee's operations.
 - (3) All transmission lines, equipment and structures shall be so installed and located as to cause minimum interference with the rights and appearance and reasonable convenience of property owners who adjoin on any public way and at all times shall be kept and maintained in a safe, adequate, and substantial condition, and in good order and repair. The grantee shall at all times employ reasonable care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares, or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. Any poles or other fixtures placed in any public way by the grantee shall be placed in such a manner as not to interfere with the usual travel on such public way, and only after obtaining and complying with appropriate street occupancy permits from the City.
 - (4) Grantee shall remove, replace, or modify at its own expense, the installation of any of its facilities as may be deemed necessary by the City or other appropriate governmental authority to meet its proper responsibilities.
 - (5) All installations shall be underground in those areas of the City where public utilities providing both telephone and electric service are underground at the time of installation. In areas where either telephone or electric utility facilities are above ground at the time of installation, the grantee may install its service above ground, provided that at such time as those facilities are required to be placed underground by the City or are placed underground, the grantee shall likewise place its services underground without additional cost to the City. If the facilities of either the electric or the telephone utility are aerial, the cable television facilities may be located underground at the request of a property owner, provided that

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the excess cost over aerial location shall be borne by the property owner making the request.

- (6) In the event of a physical disturbance of any public way or private property by the grantee, it shall, at its own expense and in a manner approved by the City or other appropriate governmental authority and the owner, replace and restore such public way or private property in as reasonably good a condition as before the work causing such disturbance was done. In the event the grantee fails to perform such replacement or restoration, the City or the owner shall have the right to do so at the sole expense of the grantee. Demand for payment to the City or owner for such replacement or restoring of such roads or private property as may have been disturbed must be in writing to the grantee.
- (7) Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the City to remove or damage any of the grantee's facilities, no charge shall be made by the grantee against the City for restoration and repair.
- (8) At the request of any person holding a valid building permit issued by the City or other appropriate governmental authority, and upon at least forty-eight (48) hours notice, grantee shall temporarily raise, lower, or cut its wires as may be necessary to facilitate such move. The direct expense of such temporary changes, including standby time, shall be paid by the permit holder, and grantee shall have the authority to require payment in advance.
- (9) Grantee shall have the authority to trim trees on public property at its own expense as may be necessary to protect its wires and facilities, subject to the supervision and direction of the City or other appropriate governmental authority.

(g) *Construction schedule and reports.*

- (1) Upon accepting the franchise, grantee shall, within sixty (60) days, file the documents required to obtain all necessary federal, state and local licenses, permits and authorizations required for the conduct of its business, and shall submit monthly reports to the City on progress in this respect until all such documents are in hand. Failure of the grantee to pursue all necessary steps to secure the aforementioned authorizations with due diligence shall

constitute a substantial violation of this article.

- (2) The grantee shall commence construction of the cable system within eight (8) months after receiving all necessary permits, authorizations and licenses, and shall complete construction of the system in the franchise area and offer and be capable of delivering cable television service in full accordance with this article and the franchise granted hereunder to subscribers in not less than fifty percent (50%) of the occupied dwelling units in the franchise area within twelve (12) months after commencing construction, and shall be capable of delivering service to the remaining fifty percent (50%) of the occupied dwelling units in the franchise area in the succeeding twelve (12) month period thereafter, or such lesser periods as shall be specified in the franchise. Notwithstanding the foregoing, failure of the grantee for any reason to commence construction within twelve (12) months of the date of acceptance of the franchise shall be grounds for revocation of the franchise. For the purpose of this section, construction shall be deemed to have commenced when the first aerial strand cable has been attached to a pole, or the first underground trench has been opened.
- (3) Franchise applications shall include a timetable showing the percentage of occupied dwelling units within the primary service area that will be capable of receiving cable television service each year of construction. Said timetable shall be incorporated into the franchise and shall be enforceable as to the grantee under the provisions of this article.
- (4) Each grantee shall fill all requests for cable service, once facilities are in place consistent with the foregoing schedule of service, within thirty (30) days after the date of each request. A record of all service requests shall be kept for at least one (1) year and shall be available for public inspection at the local office of the grantee during regular office hours with reasonable advance notice.
- (5) Within three (3) months after accepting the franchise, grantee shall furnish the City a complete construction schedule and map setting forth target dates by areas for commencement of service to subscribers. The schedule and map shall be updated whenever substantial changes become necessary.
- (6) Every three (3) months after the start of construction, grantee shall furnish the City a

report on progress of construction until complete. The report shall include a map that clearly defines the areas wherein regular subscriber service is available.

(h) **Protection of privacy.** The provisions of §134.43 of the Wisconsin Statutes, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of said statute, are hereby adopted and made a part of this section by reference. A violation of any such provision shall be a violation of this section.

(i) **Prohibition from engaging in radio and television sales or service.** The grantee, its subsidiaries and affiliates, are specifically prohibited, directly or indirectly, from engaging in the sale or leasing of television receivers, video display terminals or monitors, radio receivers, or television or radio parts, except such parts and accessories required for any type of cable connections, such as converters, remote controls and VCR connection plugs and accessories, individually or with any person, anywhere in the City, whether or not for a fee or charge, and is further prohibited from engaging in any type of repair service to television receivers or radio receivers.

(j) **Area wide interconnection of cable systems.**

- (1) A grantee, at its own option, shall interconnect access channels and/or local origination channels of its cable television system with any or all other cable systems providing service in adjacent areas. While grantee may provide such channels to multiple communities served by its distribution systems, this section refers to cabled areas managed by other operators which may now or in the future offer access or local origination channels.
- (2) Grantee shall make every reasonable effort to cooperate with cable television franchise holders in contiguous communities in order to provide cable service in areas outside the grantee's franchise area.

Sec. 9-158. General provisions.

(a) **Limits on grantee's recourse.**

- (1) The grantee, by accepting the franchise, acknowledges that it has not been induced to accept same by any promise, verbal or written, by or on behalf of the City or by any third person regarding any term or condition of this article or the franchise not expressed therein. The grantee further pledges that no promise or inducement, oral or written, has been made to any City employee or official regarding receipt of the cable television franchise.

- (2) Acceptance of the article shall not be construed as a waiver by the grantee of any existing or future right to challenge the legality of any provision of this article. Nothing herein or in grantee's acceptance may be construed to deny the grantee the right to judicial review of any action or threatened action by the City arising out of this article.

(b) **Compliance with state and federal law.** The grantee shall, at all times, comply with all laws of the state and federal government and the rules and regulations of any federal or state administrative agency; provided, however, this section shall not be construed to require the City to make an initial determination of any such violation. Grantee and City acknowledge that this article may be superseded by other state or federal laws, statutes or regulations.

(c) **Special license.** The City reserves the right to issue a license, easement or other permit to anyone other than the grantee to permit that person to traverse any portion of the grantee's franchise area within the City in order to provide service outside the City. Such license or easement, absent a grant of franchise in accordance with this article, shall not authorize nor permit said person to provide a cable television service of any nature to any home or place of business within the City, nor to render any service or connect any subscriber within the City to the grantee's cable television system.

(d) **Conflict.** In case of conflict or ambiguity between this article, the franchise and the grantee's franchise application, the grantee and the City agree that the franchise shall prevail.

(e) **Failure to enforce franchise.** The grantee shall not be excused from complying with any of the terms and conditions of this article or the franchise by any failure of the City, upon any one or more occasions, to insist upon the grantee's performance or to seek grantee's compliance with any one or more of such terms or conditions.

(f) **Rights reserved to the grantor.** The City hereby expressly reserves the following rights:

- (1) To exercise its governmental powers, now or hereafter, to the full extent that such powers may be vested in or granted to the City.
- (2) To adopt, in addition to the provisions contained herein and in the franchise and in any existing applicable article, such additional reasonable regulations of general applicability as it shall find necessary in the exercise of its police power.

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- (3) The grantee at all times in the installation, maintenance and operation of the cable television system shall be subject to the terms and conditions of City ordinances of general applicability and to the lawful exercise of the police power of the City provided however that no subsequent municipal actions shall in any way abrogate the rights granted to the grantee herein.

(g) **Employment requirement.** The grantee shall not refuse to hire, nor discharge from employment, nor discriminate against any person regarding compensation, terms, conditions, or privileges of employment because of age, sex, race, color, creed, or national origin. The grantee shall take affirmative action to insure that employees are treated during employment without regard to their age, sex, race, color, creed or national origin. This condition includes, but is not limited to, the following: recruitment advertising, employment interviews, employment, rates of pay, upgrading, transfer, demotion, lay-off, and termination.

(h) **Time essence of agreement.** Whenever this article or the franchise sets forth any time for any act to be performed by or on the behalf of the grantee, such time shall be deemed of the essence and the grantee's failure to perform within the time allotted shall, in all cases, be sufficient grounds for the City to invoke the remedies available under the terms and conditions of this article and the franchise.

(i) **Acceptance.** This article and the franchise and their terms and conditions shall be accepted by the grantee by written instrument filed with the City within thirty (30) days after the granting of the franchise, unless said period is extended by the Council at its sole discretion.

(j) **Publication costs.** The grantee shall assume the cost of publication of this article and franchise as such publication is required by law and such is payable upon the grantee's filing of acceptance as in paragraph (i) of this article.

(k) **Landlord/tenant relations.**

- (1) **Interference with cable service prohibited.** Neither the owner of any multiple unit residential dwelling nor his agent or representative shall interfere with the right of any tenant or lawful resident thereof to receive cable television service, cable installation or maintenance from a cable television company regulated by and lawfully operating under a valid and existing cable television franchise issued by the City.

(2) **Gratuities and payments to permit service**

prohibited. Neither the owner of any multiple unit residential dwelling nor his agent or representative shall ask, demand or receive any payment, service or gratuity in any form as a condition for permitting or cooperating with the installation of a cable communications service to the dwelling unit occupied by a tenant or resident requesting service.

- (3) **Penalties and charges to tenants for service prohibited.** Neither the owner of any multiple unit residential dwelling nor his agent or representative shall knowingly penalize, charge or surcharge a tenant or resident, or forfeit or threaten to forfeit any right of such tenant or resident, or discriminate in any way against such tenant or resident who requests or receives cable communications service from a grantee operating under a valid and existing cable communication franchise issued by the City.

- (4) **Reselling service prohibited.** No person shall resell, without the expressed, written consent of both the grantee and the Council, any cable service, program or signals transmitted by a cable television company operating under a franchise issued by the City.

- (5) **Protection of property permitted.** Nothing in this section shall prohibit a person from requiring that cable television system facilities conform to laws and regulations and reasonable conditions necessary to protect safety, functioning, appearance and value of premises or the convenience and safety of persons or property.

- (6) **Risks assumed by grantee.** Nothing in this section shall prohibit a person from requiring a grantee to agree to indemnify the owner, or his agents or representatives, for damages or from liability for damages caused by the installation, operation, maintenance or removal of cable television facilities.

(l) **Theft of service.** The provisions of Wisconsin Statutes §§943.46 and 943.47 and the provisions of §633 of the Cable Communications Policy Act of 1984, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of said statute, are adopted and hereby made a part of this section by reference. A violation of any such provision shall be a violation of this section. Additionally, §8.07 of this code governs obtaining cable services by fraud.

(m) **Penalties.**

- (1) Notwithstanding any other remedies provided

for in this article, or otherwise available under law, the City shall have the power to impose the following monetary penalties in the event the grantee violates any provision of this article, the franchise or any rule or regulation lawfully adopted thereunder:

- a. For failure to submit plans indicating expected dates of installation of various parts of the system - up to one hundred dollars (\$100) per day.
- b. For failure to commence operations in accordance with herein stated provisions up to two hundred dollars (\$200) per day.
- c. For failure to complete construction and installation of system within proper time up to three hundred dollars (\$300) per day.

(2) Persons, whether natural or artificial, or commercial entities who violate the following provisions of this article herein before deemed unlawful shall be subject to a fine not to exceed five hundred dollars (\$500) for each offense:

- a. Willful failure by a grantee to comply with the laws, rules or regulations described in subsections (7)(d)1.
- b. Violation of subscriber's privacy as set forth in subsection (7)(h).
- c. Any person interfering with the provision of cable communications service as described in subparagraphs 1, 2, 3 or 4 of paragraph (k) of this article.
- d. Failure of grantee to tender franchise fee payments at the time required by subsection (5)(g) will result in interest accruing at a rate of one percent (1%) per month from said due date.

(n) **Grantee may promulgate rules.** Grantee shall have the authority to promulgate such rules, regulations, terms and conditions of its business as shall be reasonably necessary to enable it to exercise its rights and perform its services under this article and the rules of the FCC, and to assure uninterrupted service to each and all of its subscribers. Such rules and regulations shall not be deemed to have the force of law.

(o) **Delegation of powers.** Any delegable right, power or duty of the City, the Council, the agency or any official of the City under this article may be transferred or delegated by resolution of the Council to an appropriate officer, employee or department of the City or any other

legal authority.

(p) **Severability.** If any section of this article or the franchise, or any portion thereof, is held invalid or unconstitutional by any court of competent jurisdiction or administrative agency, such decision shall not affect the validity of the remaining portions hereof.

(q) **Effective date.** This article shall become effective upon passage and publication.
(Ord 136-88, §1, 11-2-88)

Secs. 9-159 – 9-185. Reserved.

**ARTICLE VI. FOOD AND FOOD SERVICE
ESTABLISHMENTS***

DIVISION 1. GENERALLY

Sec. 9-186. Application for license.

Application for a license required in this article shall be made to the Health Department upon a form furnished by the Department and shall contain such information which the Department may prescribe and require and shall be accompanied by payment of the applicable fee.

(Code 1965, §7.15(2); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92)

Sec. 9-187. Issuance of license generally.

Licenses required under this article, when approved by the Health Department, shall be issued by the Health Officer. A selective or restrictive permit may be issued by the Health Officer on his determination of conformance with appropriate standards and good public health practices, which permit shall entitle the holder to store, display and sell such products in such manner as may be specified by the Health Officer.

(Code 1965, §7.15(3); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92)

Sec. 9-188. Inspection required prior to granting of license; fee.

A license will not be granted under this article to an operator of a new establishment or to a new operator of an existing establishment without a preinspection. A preinspection fee will be assessed for each establishment according to the schedule on file with the Department of Health.

(Code 1965, §7.15(10); Ord 100-90, §1J(10), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 37-93, §1, 3-17-93)

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

State law reference(s)--Soda fountain licenses, W.S.A. §66.0433; food regulations, W.S.A. §97.01 et seq.

Sec. 9-189. Transfer of license; issuance to agent or employee.

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

(Code 1965, §7.15(9); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92)

Sec. 9-190. Expiration and renewal of license.

Except where otherwise provided, every Health Department license shall terminate or expire on June 30 of

each year and may be renewed annually thereafter. The application for renewal shall be filed with the Health Department on or before June 30, together with payment of the required fee. The fee for said license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Health Department. If the annual renewal fee has not been paid on or before June 30, an additional late payment fee shall be required, the amount of which is on file with the Health Department. Establishments operating on July 15 without a proper license shall be ordered closed by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18. Each violation and each day a violation continues or occurs shall constitute a separate offense.

(Code 1965, §7.15(4); Ord 100-90, §1J(4), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92, Ord 106-95, §1, 11-15-95; Ord 74-96, §1, 9-4-96)

Sec. 9-191. Suspension or revocation of license.

The Health Officer may suspend or revoke any license issued pursuant to this article for violations of ordinances or laws regulating the licensed activity and for other good cause.

(Code 1965, §7.15(8)(a); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92)

Sec. 9-192. Reserved.

(Code 1965, §7.15(1)(I); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92, Ord 21-03, §1, 1-21-03)

Sec. 9-193. Right of entry; testing of samples.

The Health Officer may enter any establishment required to be licensed in this article at all reasonable times to inspect the premises, secure samples or specimens, examine and copy documents, obtain photographs or take any other action he deems necessary to properly enforce the provisions of applicable laws regulating such business or activity. Samples of food, drink or water from any bakery, confectionery, restaurant, retail food establishment or any other licensed premises may be taken from any licensed premises and examined by the Health Officer at such times as he deems necessary, for detection of unwholesomeness, adulteration, microbiological quality or any other enforcement purposes. Adulteration and microbiological quality standards and definitions set forth

in W.S.A. §97.02 or the State Department of Agriculture, Trade and Consumer Protection, Food Division's Policies and Procedures Manual section 14.1 and 14.2 are hereby adopted by reference and incorporated as part of this section.

(Code 1965, §7.15(5); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 2-95, §1, 1-4-95, Ord 21-03, §1, 1-21-03; Ord 6-13, §1, 3-26-13)

Sec. 9-194. Correction of violations; citations.

Whenever the Health Officer finds that any establishment required to obtain a license in this article is not operating or equipped in any manner required by ordinances or laws regulating such establishment, the Health Officer may notify, in writing, the person operating the premises, specifying the requirements of such ordinance or law, and requiring that such business comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Health Officer. The Health Officer may also request the issuance of citations for any such violations pursuant to the provisions of §1-17.

(Code 1965, §7.15(6); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92)

Sec. 9-195. Emergency powers of Health Officer.

Whenever the Health Officer has reasonable or probable cause to believe that any food, sanitary condition, equipment, premises or method of operation thereof creates a danger to public health, the Health Officer may issue a temporary order prohibiting the sale or movement of food for any purpose, or an order prohibiting the continued operation of the premises or any part thereof which creates the immediate danger to health. The Health Officer may suspend any license without notice whenever the licensed premises constitutes an immediate health hazard.

(Code 1965, §7.15(7); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92)

Sec. 9-196. Appeals.

Any person aggrieved by the denial of a license or by suspension or revocation of a license required under this article by the Health Officer or by any temporary suspension or any other order may appeal any such order to the Board of Health within thirty (30) days of denial, suspension or revocation of a license or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order pending determination of the appeal. The Board of Health may affirm, modify, or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings relating to any

such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record

(Code 1965, §7.15(8)(b); Ord 20-92, §1, 3-4-92)

Sec. 9-197. Litter disposal at drive-ins and premises with outside vending machines.

Any premises on which the public is served food or beverages while seated in vehicles or outdoors, commonly known as drive-ins, or upon which is located a food or beverage outdoor vending machine, shall be provided with adequate facilities for the disposal of bottles, cans, napkins, straws and similar litter resulting from such business, and shall promptly dispose of any such litter which may be thrown or fall on or around the premises.

(Code 1965, §8.04(2); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Secs. 9-198 – 9-215. Reserved.

**DIVISION 2. RETAIL FOOD
ESTABLISHMENTS***

Sec. 9-216. Definitions.

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

Food means articles used for food or drink by persons, chewing gum, and articles used as components of food.

Retail food establishment means an establishment required to be licensed under W.S.A. §97.30, and all other commercial enterprises, fixed or mobile, where food is processed or sold or offered for sale at retail. The term shall also include all areas and facilities of such establishments used in conjunction therewith and all vehicles and equipment utilized in conjunction therewith. It includes retail grocery stores; meat markets; poultry markets; fish markets; delicatessens; bakeries; confectioneries; ice cream shops; cheese stores; convenience marts; milk cases; spice and herb shops; mobile retail food establishments; and all other establishments where food is processed or sold or offered for sale at retail.

(Code 1965, §7.16(2); Ord 21-92, §1, 3-4-92; Ord 59-92, §1, 6-3-92; Ord 35-94, §1, 2-16-94, Ord 21-03, §1, 1-21-03; Ord 79-16, §1, 11-8-16)

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

Sec. 9-217. License required.

(a) No person shall operate or carry on a business of a retail food establishment without obtaining a license therefore from the Health Department.

(b) The following establishments are excepted from the provisions of this section:

- (1) Any establishment exempted according to the terms and conditions in any agreement by and between the City and State Department of Agriculture, Trade and Consumer Protection. Any such agreements shall be on file with the Department of Health.

(Code 1965, §7.16(1); Ord 21-92, §1, 3-4-92; Ord 36-94, §1, 2-16-94, Ord 21-03, §1, 1-21-03)

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

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

State law reference(s)--Licenses, W.S.A. §§93.09, 97.30 et seq.

Sec. 9-218. Fees.

A license shall be required to operate or conduct the following retail food establishments. The fee for said license shall be on file with the Department of Health. Other regulations shall be as prescribed in this chapter.

- (1) Food sales of one million dollars (\$1,000,000) or more and processes potentially hazardous food.
- (2) Food sales of two hundred fifty thousand dollars (\$250,000) to one million dollars (\$1,000,000) and processes potentially hazardous food.
- (3) Food sales of twenty-five thousand dollars (\$25,000) to two hundred fifty thousand dollars (\$250,000) and processes potentially hazardous food.
- (4) Processes non-potentially hazardous food.
- (5) Does not engage in food processing.
- (6) Food sales of less than twenty-five thousand dollars (\$25,000) and engage in food processing.

(7) In addition, the applicant must pay any state administrative fees, the amount of which is on file with the Department of Health.

(Code 1965, §7.15(1)(B); Ord 100-90, §1(b), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 21-92, §1, 3-4-92; Ord 106-92, §1, 10-7-92; Ord 38-93, §1, 3-17-93, Ord 21-03, §1, 1-21-03)

Sec. 9-219. State sanitation regulations adopted.

All retail food establishments and licenses under this division shall be subject to and comply with the provisions of Wisconsin Administrative Code, Sections ATCP 75.01 through ATCP 75.05, which are hereby adopted by reference and incorporated as part of this division.

(Code 1965, §7.16(3); Ord 20-92, §1, 3-4-92; Ord 144-94, §1, 12-7-94, Ord 21-03, §1, 1-21-03; Ord 80-16, §1, 11-8-16)

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

Secs. 9-220 – 9-235. Reserved.

**DIVISION 3. RESTAURANTS AND OTHER
PUBLIC EATING AND DRINKING
ESTABLISHMENTS**

Sec. 9-236. Definition.

For purposes of this division, public eating and drinking establishment shall mean any premises as defined by Wisconsin Administrative Code, ATCP §75.03(5), and shall also mean any restaurant, coffee shop, cafeteria, caterer, luncheonette, sandwich stand and all other catering establishments, as well as kitchens and other places where food or drink is prepared, served or sold to the public for human consumption.

(Code 1965, §7.17(2), Ord 21-03, §1, 1-21-03; Ord 81-16, §1, 11-8-16)

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

Sec. 9-237. License required; fees.

(a) No person shall conduct a business of or operate a public eating and drinking establishment without obtaining a license therefore from the Health Department. The fee for a license under this division shall be on file with the Department of Health.

(b) In addition, the applicant must pay any state administrative fees, the amount of which is on file with the Department of Health.

(Code 1965, §§7.15(1)(a), 7.17(1); Ord 100-90, §1(a), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 21-93, §1, 2-17-93; Ord 39-93, §1, 3-17-93)

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

Sec. 9-238. State sanitation regulations adopted.

All restaurants and licensees under this division shall be subject to and comply with the provisions of Wisconsin Administrative Code, sections ATCP 75.01 through ATCP 75.112, which are hereby adopted by reference and incorporated as part of this division.

(Code 1965, §7.17(3); Ord 145-94, §1, 12-7-94, Ord 21-03, §1, 1-21-03; Ord 82-16, §1, 11-8-16)

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

Sec. 9-239. Cleanliness of utensils.

The Health Officer may test the efficacy of bactericidal processes of utensil cleaning by performing swab tests or other suitable testing methods, and the average of such counts on eating and drinking utensils shall not exceed one hundred (100) colonies per utensil at any time.

(Code 1965, §7.17(3))

Secs. 9-240—9-255. Reserved.

DIVISION 4. SIDEWALK CAFES

9-256. Definitions.

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

Amenity Strip shall mean the area between the curb and the defined pedestrian right-of-way along College Avenue between Richmond Street and Drew Street. On all other streets, amenity strip shall mean a minimum four- (4-) foot width between the curb and an eight- (8-) foot pedestrian right-of-way.

Sidewalk Café shall mean any group of tables and chairs maintained upon the amenity strip for use directly in front of an establishment with a valid food and drink permit. (Ord 51-05, §1, 5-24-05; Ord 114-06, §1, 9-26-06)

9-257. Permit required.

No merchant shall have a sidewalk café within the City without first obtaining a Street Occupancy Permit from the Department of Public works. (Ord 51-05, §1, 5-24-05)

9-258. Application for permit; permit fees.

In order to obtain a Street Occupancy Permit required under this division, a written request shall be made to the Department of Public Works and shall contain such information which the Department may prescribe and require and shall be accompanied by payment of the applicable fee. (Ord 51-05, §1, 5-24-05)

9-259. Granting; transfer.

Upon approval of the written request by the Common Council, the Department of Public Works shall issue the Street Occupancy Permit. Each permit shall be numbered in the order in which it is issued and shall contain the approval date, the location, and the name of the permit holder. No permit shall be transferable either to the permit holder or the location. (Ord 51-05, §1, -24-05)

9-260. Appeal of denial.

If the investigating authority denies a written request for a Street Occupancy Permit under this division, the Department of Public Works shall forthwith notify the requestor by certified mail, return receipt requested, of the denial and the reason therefore. The notice shall indicate the date and time of the review of the denial by the Municipal Services Committee and the right of the

requestor to appear before the Committee. The Municipal Services Committee shall hear any person for or against the granting of the permit and shall report its recommendation to the Common Council, which shall grant or deny the permit.

(Ord 51-05, §1, 5-24-05)

9-261. Restrictions on use of permit.

Street Occupancy Permits issued under this division shall not be valid on the following special event days: Flag Day Parade, License to Cruise, Oktoberfest, Christmas Parade and any day that planned/permitted special event would close the street in front of the sidewalk café for normal use or traffic.

(Ord 51-05, §1, 5-24-05)

9-262. Conduct of business generally.

(a) A permit holder under this division shall be subject to the following:

(1) The parameters of the sidewalk café shall be limited to the area of the amenity strip located immediately in front of the establishment and shall not extend beyond the width of the establishment's property line.

(2) No sidewalk café may neither obstruct the defined pedestrian right-of-way adjacent to the amenity strip, nor have any items in excess of five (5) feet in height, with the exception of table umbrellas.

(Ord 54-17, §1, 8-8-17)

(3) A permit holder shall keep the parameters of the sidewalk café and the surrounding area in a clean and sanitary condition.

(4) All food, beverages or other items shall only be served within the sidewalk café by employees of the permit holder and only to patrons who are seated at a table within the sidewalk café. This section shall not apply to establishments that solely offer over the counter service and are not licensed to sell alcoholic beverages.

(5) During the sidewalk café's operating hours, patrons being served within the sidewalk café shall count towards the premise's established capacity.

(6) A minimum width of twelve (12) feet between the back of curb and the building face must exist; with a minimum of eight (8) feet available for pedestrian traffic and four (4) feet available for tables and chairs.

(7) The sidewalk café must be adjacent to the street with marked on-street parking stalls to provide a physical barrier between vehicular traffic and the café.

(b) If a permit holder is going to serve alcoholic beverages within the parameters of the sidewalk café, the permit holder shall also be subject to the following:

(1) The permit holder must hold a Class B license.

(2) The description for the premise on the Class B license must include the parameters of the sidewalk café.

(3) The permit holder can begin serving alcoholic beverages in the sidewalk café at 4:00 p.m. Monday through Friday and 11:00 a.m. on Saturday and Sunday. All alcoholic beverages must be removed from the sidewalk café by 9:30 p.m.

(4) A licensed operator working for the permit holder must serve the alcoholic beverages in the sidewalk café.

(5) Customers are not allowed to carry alcoholic beverages outside the sidewalk café.

(c) The Chief of Police or designee may close a sidewalk café at any time the health, safety, welfare or good order of the City is threatened.

(Ord 51-05, §1, 5-24-05; Ord 115-06, §1, 9-26-06; Ord 138-09, §1, 8-11-09; Ord 53-14, §1, 7-8-14; Ord 166-24, §1, 11-6-24)

9-263. Revocation, suspension, non-renewal.

(a) **Causes.** A Street Occupancy Permit may be revoked, suspended or not renewed for a violation of any provision of this ordinance, or any other City ordinance or state statute which is substantially related to the permit activity.

(b) **Procedure.**

(1) A complaint shall be made in writing by the Chief of Police or any other person to the Common Council.

(2) A hearing shall be held before the Municipal Services Committee. The permit holder shall be notified in writing of the hearing date and time and of the charges alleged, not less than three (3) days and not more than ten (10) days prior to the hearing.

LICENSES, PERMITS AND BUSINESS REGULATIONS

- (3) At the hearing, the Chief of Police or designee shall present evidence of the alleged violation(s). The permit holder may appear in person with or without counsel and shall be allowed to question witnesses and present evidence.

- (4) At the conclusion of the hearing, the Municipal Services Committee shall make a recommendation to the Common Council whether cause for revocation, suspension or non-renewal exists. The Common Council shall consider the recommendation at its next regularly scheduled meeting and may revoke, suspend for a period not less than ten (10) days nor more than ninety (90) days, refuse to renew or grant the permit. If the permit holder is not satisfied with the Common Council's decision, the permit holder may, within thirty (30) days, have the decision reviewed by the circuit court.

(Ord 51-05, §1, 5-24-05)

9-264. Liability insurance.

To hold a Street Occupancy Permit, the permit holder must have in force liability insurance and must agree to indemnify, defend and hold the City, its employees and agents harmless against all claims, liability, loss, damage, or expense incurred by the City as a result of any injury to or death of any person or damage to property caused by or resulting from the activities for which the permit is granted. As evidence of liability insurance, the permit holder shall furnish a Certificate of Insurance, on a form acceptable to the City, evidencing the existence of adequate liability insurance naming the City of Appleton, its employees and agents as additional insureds in an amount not less than one million dollars (\$1,000,000). Whenever such policy is cancelled, not renewed, or materially changed the insurer and the permit holder shall notify the City of Appleton by certified mail.

(Ord 51-05, §1, 5-24-05)

9-265. Penalty for violation of division.

Any person who shall violate any provision of this division shall be subject to the penalty as provided in §1-16.

(Ord 51-05, §1, 5-24-05)

Secs. 9-266—9-275. Reserved.

DIVISION 5. RESERVED*

Secs. 9-276—9-295. Reserved.

***Editor's note--**Ord 22-93, §1, adopted Feb. 17, 1993, repealed Divs. 4 and 5, §9-256-§9-258, §9-276-§9-278, which pertained to bakeries and confectioneries.

ARTICLE VII. HOTELS, MOTELS AND OTHER TOURIST ROOMING HOUSES

DIVISION 1. GENERALLY

Sec. 9-296. Application for license.

Application for a license required in this article shall be made to the Health Department upon a form furnished by the Department and shall contain such information which the Department may prescribe and require and shall be accompanied by payment of the applicable fee.

(Code 1965, §7.15(2); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Sec. 9-297. Issuance of license generally.

Licenses required under this article, when approved by the Health Department, shall be issued by the Health Officer. A selective or restrictive permit may be issued by the Health Officer on his determination of conformance with appropriate standards and good public health practices, which permit shall entitle the holder to store, display and sell such products in such manner as may be specified by the Health Officer.

(Code 1965, §7.15(3); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Sec. 9-298. Inspection required prior to granting of license; fee.

A license will not be granted under this article to an operator of a new establishment or to a new operator of an existing establishment without a preinspection. A preinspection fee will be assessed for each establishment according to the schedule on file with the Department of Health.

(Code 1965, §7.15(10); Ord 100-90, §1J(10), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 40-93, §1, 3-17-93)

Sec. 9-299. Transfer of license; issuance to agent or employee.

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

(Code 1965, §7.15(9); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Sec. 9-300. Expiration and renewal of license.

Except where otherwise provided, every Health Department license shall terminate or expire on June 30 of each year and may be renewed annually thereafter. The application for renewal shall be filed with the Health Department on or before June 30, together with payment of

the required fee. The fee for said license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Health Department. If the annual renewal fee has not been paid on or before June 30, an additional late payment fee shall be required, the amount of which is on file with the Health Department. Establishments operating on July 15 without a proper license shall be ordered closed by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18. Each violation and each day a violation continues or occurs shall constitute a separate offense.

(Code 1965, §7.15(4); Ord 100-90, §1J(4), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 106-95, §1, 11-15-95; Ord 74-96, §1, 9-4-96)

Sec. 9-301. Suspension or revocation of license.

The Health Officer may suspend or revoke any license issued pursuant to this article for violations of ordinances or laws regulating the licensed activity and for other good cause.

(Code 1965, §7.15(8)(a); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Sec. 9-302. Right of entry; testing of samples.

The Health Officer may enter any establishment required to be licensed in this article at all reasonable times to inspect the premises, secure samples or specimens, examine and copy documents, obtain photographs or take any other action he deems necessary to properly enforce the provisions of applicable laws regulating such business or activity. Samples of food, drink or water from any licensed premises may be taken from any licensed premises and examined by the Health Officer at such times as he deems necessary, for detection of unwholesomeness, adulteration, microbiological quality, or any other enforcement proposes. Adulteration and microbiological quality standards and definitions set forth in W.S.A. §97.02 or the State Department of Agriculture, Trade and Consumer Protection, Food Division's Policies and Procedures Manual section 14.1 and 14.2 are hereby adopted by reference and incorporated as part of this section.

(Code 1965, §7.15(5); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 3-95, §1, 1-4-95; Ord 22-03, §1, 1-21-03; Ord 7-13, §1, 3-26-13)

Sec. 9-303. Correction of violations; citations.

Whenever the Health Officer finds that any establishment required to obtain a license in this article is not operating or equipped in any manner required by ordinances or laws regulating such establishment, the Health Officer may notify, in writing, the person operating

the premises, specifying the requirements of such ordinance or law, and requiring that such business comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Health Officer. The Health Officer may also request the issuance of citations for any such violations pursuant to the provisions of §1-17.
(Code 1965, §7.15(6); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Sec. 9-304. Emergency powers of Health Officer.

Whenever the Health Officer has reasonable or probable cause to believe that any food, sanitary condition, equipment, premises or method of operation thereof creates a danger to public health, the Health Officer may issue a temporary order prohibiting the sale or movement of food for any purpose, or an order prohibiting the continued operation of the premises or any part thereof which creates the immediate danger to health. The Health Officer may suspend any license without notice whenever the licensed premises constitutes an immediate health hazard.
(Code 1965, §7.15(7); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Sec. 9-305. Appeals.

Any person aggrieved by the denial of a license or by suspension or revocation of a license required under this article by the Health Officer or by any temporary suspension or any other order may appeal any such order to the Board of Health within thirty (30) days of suspension, revocation or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such other pending determination of the appeal. The Board of Health may affirm, modify or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings relating to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record
(Code 1965, §7.15(8)(b); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Secs. 9-306—9-320. Reserved.

DIVISION 2. BED AND BREAKFAST ESTABLISHMENTS*

Sec. 9-321. Definition.

For the purposes of this division, *bed and breakfast establishment* means any place of lodging that provides eight (8) or fewer rooms for rent to no more than a total of twenty (20) tourists or other transients for more than ten (10) nights in a twelve- (12-) month period, is the owner's personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.

(Code 1965, §7.24(2); Ord 146-94, §1, 12-7-94; Ord 48-97, §1, 6-4-97; Ord 68-07, §1, 6-26-07; Ord 33-14, §1, 5-27-14)

Sec. 9-322. License required; fees.

No person shall operate or carry on a bed and breakfast establishment without obtaining a license from the Health Department. The fee for the license is on file with the Department of Health. In addition, the applicant must pay any state administrative fees, the amount of which is on file with the Department of Health.

(Code 1965, §7.15(1)(h), 7.24(1); Ord 100-90, §1(h), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 41-93, §1, 3-17-93)

Sec. 9-323. State sanitation regulations adopted.

All bed and breakfast establishments and licensees under this division shall be subject to and comply with Wisconsin Administrative Code, ATCP §73.01 through ATCP §73.15, which are hereby adopted by reference and incorporated as part of this division.

(Code 1965, §7.24(3), Ord 22-03, §1, 1-21-03; Ord 34-14, §1, 5-27-14 ; Ord 83-16, §1, 11-8-16)

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

Sec. 9-324. Guest register.

Each bed and breakfast establishment shall provide a register and require all guests to register their true names and addresses before being assigned sleeping quarters. The register shall be kept intact and available for inspection by representatives of the Health Department for at least one (1) year.

(Code 1965, §7.24(3))

Secs. 9-325 – 9-340. Reserved.

**DIVISION 3. HOTELS, MOTELS AND TOURIST
ROOMING HOUSES***

**ARTICLE VIII. JUNKYARDS AND
SECONDHAND GOODS DEALERS***

Sec. 9-341. Definition.

For purposes of this division, hotel, motel and tourist rooming house shall mean any premises defined by Wisconsin Administrative Code, ATCP 72.03.
(Code 1965, §7.21(2), Ord 22-03, §1, 1-21-03)

Sec. 9-342. License required; fee.

(a) No person shall operate a hotel, motel or tourist rooming house without obtaining a license from the Health Department.

(b) The fee for such license is according to the schedule on file with the Health Department.

(c) In addition, the applicant must pay any state administrative fees, the amount of which is on file with the Department of Health.
(Code 1965, §§7.15(1)(E), 7.21(1); Ord 100-90, §1(e), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 42-93, §1, 3-17-93)

Sec. 9-343. State sanitation regulations adopted.

All hotels, motels and tourist rooming houses and licensees under this division shall be subject to and comply with the provisions of Wisconsin Administrative Code, ATCP §72.01 through ATCP §72.16, which are hereby adopted by reference and incorporated as part of this division.

(Code 1965, §7.21(3), Ord 22-03, §1, 1-21-03; Ord 84-16, §1, 11-8-16)

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

Secs. 9-344 – 9-360. Reserved.

DIVISION 1. GENERALLY

Secs. 9-361—9-385. Reserved.

DIVISION 2. SALVAGE DEALERS**

Sec. 9-386. License required.

No person in the City shall keep, conduct or maintain any building, structure, yard or place for keeping, storing or piling in commercial quantities, whether temporarily, irregularly or continually, or for the buying and selling or picking up and selling at retail or wholesale or dealing in any old, used or secondhand materials of any kind, including cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, brass, copper or other metal, furniture, used motor vehicles or the parts thereof, or other article which from its worn condition renders is practically useless for the purpose for which it was made and which is commonly classed as junk or salvage, nor shall any person engage in the business of buying or selling junk or salvage as described in this section in the City, without first having obtained a license as provided in this division. Any person engaging in the business described in this section shall be known as a salvage dealer.

(Code 1965, §11.05(1))

***State law references**--Secondhand goods, W.S.A. §100.18(3); storage of junked automobiles, W.S.A. §175.25; secondhand goods dealer regulations, W.S.A. §134.71.

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

Sec. 9-387. Application for license.

Every applicant for a license to engage in the business of salvage dealer shall file with the City Clerk a written application upon a form prepared and provided by the City, signed by the applicant. The application shall state:

- (1) The name and residence of the applicant if an individual, partnership or firm, or the names of the principal officers and their residences if the applicant is an association or corporation.
- (2) Whether the applicant or an officer or manager of the applicant has been employed by a salvage dealer or has been a salvage dealer.
- (3) The detailed nature of the business to be conducted and the kind of materials to be collected, bought, sold or otherwise handled.
- (4) The place where such business is to be located or carried on.

Such application shall contain an agreement that the applicant accepts the license, if granted, upon the condition that it may be suspended for cause at any time by the Common Council.

(Code 1965, §11.05(2); Ord 51-25, §1, 06-04-25)

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

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

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

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

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

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

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

Sec. 9-390. License fee.

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

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

Sec. 9-391. Nonconforming uses.

Licensees under this division permitted in zoning

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

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

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

Sec. 9-393. Probation.

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

Sec. 9-394. Operation of business generally.

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

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

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

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

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

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

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

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

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

Sec. 9-395. Register required.

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

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

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

Sec. 9-397. Lost or stolen articles.

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

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

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

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

(Code 1965, §11.06(5))

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

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

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

(Code 1965, §11.05(10))

Secs. 9-400—9-415. Reserved.

DIVISION 3. SECONDHAND GOODS DEALERS

Sec. 9-416. State law adopted.

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

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

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

Sec. 9-417. License required.

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

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

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

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

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

Sec. 9-418. Exempted secondhand article dealers.

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

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

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

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

with the City Clerk's Office on the appropriate form. The fees for licenses required are on file in the office of the City Clerk.
(Ord 38-92, §4, 4-15-92; Ord 12-94, §1, 1-5-94; Ord 148-09, §1, 10-13-09)

Sec. 9-420. Issuance of license.

(a) Upon receipt of an application for a license under this division, the Chief of Police, Fire Chief and sealer of weights and measures shall institute such investigation of the applicant as they deem necessary for the protection of the public good.

(b) The Common Council shall issue a license to the applicant upon the approval of the application after investigation and the payment to the City of the license fee.
(Ord 38-92, §5, 4-15-92)

Sec. 9-421. Requirements.

(a) ***Daily reports to police.***

- (1) Pawnbrokers and secondhand article and jewelry dealers must maintain an electronic inventory tracking system which is capable of transmission and delivery of all statutorily-required information via computer to an entity designated by the City of Appleton Police Department.
- (2) Pawnbrokers and secondhand article and jewelry dealers must submit every reportable transaction to the Police Department each business day in the following manner.
 - a. Pawnbrokers and secondhand article and jewelry dealers must provide to the Police Department all required information pursuant to Wis. Stat. sec. 134.71(8), by transferring it from their computer to an entity designated by the City of Appleton Police Department.
 - b. If a pawnbroker or secondhand article and jewelry dealer is unable to successfully transfer the required reports electronically, the pawnbroker or secondhand article and jewelry dealer must provide the Police Department with printed copies of all reportable transactions by 12:00 noon the next business day.
 - c. If the problem is determined to be in the pawnbroker's or secondhand article and jewelry dealer's system and is not corrected by the close of the first business day following the failure, the pawnbroker or

secondhand article and jewelry dealer must provide the required reports as detailed in Wis. Stat. sec. 134.71(8), and shall be charged a daily reporting fee of ten dollars (\$10.00) until the error is corrected or if the problem is determined to be outside the pawnbroker or secondhand article and jewelry dealer's system, the pawnbroker or secondhand article and jewelry dealer must provide the required reports pursuant to Wis. Stat. sec. 134.71(8) and electronically resubmit all such transactions when the error is corrected.

- d. Regardless of the cause or origin of the technical problems that prevented the pawnbroker or secondhand article and jewelry dealer from uploading the reportable transactions, upon correction of the problem, the pawnbroker or secondhand article and jewelry dealer shall upload every reportable transaction from every business day the problem existed.
- e. The provisions of this section notwithstanding, the Police Department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

(b) ***Holding Period.***

- (1) Except as provided in subsection (3), any secondhand article purchased or received by a pawnbroker or secondhand article and jewelry dealer shall be kept on the premises or other place for safekeeping for not less than twenty-one (21) days after the date of purchase or receipt, unless the person known by the pawnbroker to be the lawful owner of the secondhand article redeems it.
- (2) During the period set forth in subsection (1), the secondhand article or secondhand jewelry shall be held separate and apart and may not be altered in any manner. The pawnbroker, secondhand article dealer or secondhand jewelry dealer shall permit any law enforcement officer to inspect the secondhand article or secondhand jewelry during this period. Within twenty-four (24) hours after a written request of a law enforcement officer during this period, a pawnbroker, secondhand dealer or secondhand jewelry dealer shall make available for inspection any secondhand article or secondhand jewelry that is kept off the premises for safekeeping. Any law enforcement officer who has reason to believe any secondhand

article or secondhand jewelry was not sold or exchanged by the lawful owner may direct a pawnbroker, secondhand article dealer or secondhand jewelry dealer to hold that secondhand article or secondhand jewelry for a reasonable length of time that the law enforcement officer considers necessary to identify it.

(3) Subsection 9-421 does not apply to any of the following:

- a. A coin of the United States, any gold or silver coin or gold or silver bullion.
- b. A secondhand article consigned to a pawnbroker, secondhand dealer, or secondhand jewelry dealer.

(4) Subsection 9-421(b) does not apply to articles defined as sporting goods other than weapons, ammunition, and electronics used in outdoor sports.

(c) ***Storage of Goods.*** Licensees shall insure that all of their merchandise and any parts for said merchandise shall be stored indoors.

(Ord 38-92, §6, 4-15-92; Ord 58-92, §2, 5-20-92; Ord 148-09, §1, 10-13-09)

Secs. 9-422. Reserved.

ARTICLE IX. RESERVED

Editor's Note: Article IX, Massage establishments and practitioners was repealed by Ordinance No. 36-05, Effective April 26, 2005.

Secs. 9-423 – 9-490. Reserved.

**DIVISION 2. CLOSE-OUT SALES
AND OTHER BUSINESS TERMINATIONS***

Sec. 9-546. Adoption of state law.

The provisions of W.S.A. §100.18(3m) and §100.20(1m), exclusive of penalty, are hereby adopted by reference and made a part of this division. Wisconsin Administrative Code, chapter AG 124 is hereby adopted by reference and made a part of this division.
(Code 1965, §11.08(4))

Sec. 9-547. Permit generally.

(a) **Permit required.** No person shall conduct at retail any closing-out sale of merchandise or conduct any sale of merchandise which is advertised or implied as one which will result in the termination of such business without a permit issued pursuant to this division.

(b) **Application.** Every person requiring a closing-out sale permit shall make application in writing on a form provided by the City Clerk. The application shall contain the legal name of the business and its address, the location of the sale, the names and addresses of the principals and agents and officers of the business and the name of the person who will conduct and be responsible for the sale and the purpose and duration of the sale.

(c) **Fee; term; limitation on issuance.** The amount of the fee for such permit shall be on file in the office of the City Clerk. The fee shall be submitted by applicant at the time of application. Permits shall be issued for a period of ninety (90) consecutive days and no sale may exceed ninety (90) days. No more than one (1) permit per year may be issued to any applicant.

(d) **Payment of outstanding taxes and fees.** No permit may be granted or issued to any applicant or for any premises upon which taxes or assessments or other financial claims of the City are delinquent or unpaid.

***Cross reference(s)**--Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.
(Code 1965, §11.08(1)--(3), (5); Ord 15-94, §1, 1-5-94)

Sec. 9-548. Appeal of denial of permit.

If the investigating authority denies an application for a permit under this division, the City Clerk shall forthwith notify the applicant by certified mail return receipt requested of the denial and the reason therefore. The notice shall indicate the date and time of the review of the denial by the Safety and Licensing Committee and the right of the applicant to appear before the committee. The Safety and Licensing Committee shall hear any person for or against granting the permit and shall report its recommendation to the Common Council, which shall grant or deny the permit.
(Ord 108-04, §1, 8-10-04)

ARTICLE X. MISCELLANEOUS SALES

DIVISION 1. GENERALLY

Secs. 9-491 – 9-545. Reserved.

LICENSES, PERMITS AND BUSINESS REGULATIONS

DIVISION 3. CHRISTMAS TREE SALES*

Sec. 9-549. Adding merchandise to inventory.

No merchandise shall be added to the inventory of an individual or firm conducting a sale as specified in §9-547(a) after an application for a permit under this division is filed with the City Clerk.

(Code 1965, §11.08(6))

Sec. 9-550. Access to business records.

Every person applying for or operating with an approved permit as required under this division shall provide the City Clerk and the City sealer of weights and measures with full access to all business records, including inventories and packing slips, at the time of application and at any time during a sale under the approved permit.

(Code 1965, §11.08(7))

Secs. 9-551 – 9-565. Reserved.

Sec. 9-566. License generally.

No person shall engage in the business of selling Christmas trees without a license obtained from the City Clerk pursuant to §9-21 et seq., and payment of the fee, the amount of which is on file in the office of the City Clerk. The license shall in no way be construed to affect existing or future zoning or land use.

(Code 1965, §§11.02(1), 11.17(1); Ord 147-91, §1, 12-19-91; Ord 16-94, §1, 1-5-94)

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

Sec. 9-567. Appeal of denial of license.

If the investigating authority denies an application for a license under this division, the City Clerk shall forthwith notify the applicant by certified mail return receipt requested of the denial and the reason therefore. The notice shall indicate the date and time of the review of the denial by the Safety and Licensing Committee and the right of the applicant to appear before the committee. The Safety and Licensing Committee shall hear any person for or against granting the license and shall report its recommendation to the Common Council, which shall grant or deny the license.

(Ord 108-04, §1, 8-10-04)

Sec. 9-568. Cleanup of lot.

Any person licensed under this division shall at the close of his business season remove from the premises any unsold Christmas trees, wreaths and the like, and shall clean up the lot in a manner satisfactory to the Division of Inspection.

(Code 1965, §11.17(2); Ord 32-92, §1, 3-18-92; Ord 176-93, §1, 10-19-93; Ord 123-96, §1, 12-18-96)

DIVISION 4. FIREWORKS SALES**Sec. 9-569. License generally.**

(a) **License required.** No person shall engage in the business of selling fireworks without a license obtained from the City Clerk pursuant to §9-21 et seq., and payment of the fee, the amount of which is on file in the office of the City Clerk. The license shall in no way be construed to affect existing or future zoning or land use.

(b) **Application.** Every person requiring a fireworks sales license shall make application in writing on a form prescribed by the City Clerk. The application shall contain the legal name of the company, street address and contact information. The specific location where the sales will occur and detailed types of merchandise must be provided.

(c) **Fee; term; limitation on issuance.** The amount of the fee for such license shall be on file in the office of the City Clerk. The fee shall be submitted by applicant at the time of application. Licenses shall include two employees and shall be issued for a period of sixty (60) consecutive days and no sale may exceed sixty (60) days. No more than one (1) license per year may be issued to any applicant.

Sec. 9-570. License investigation.

Upon receipt of an application for a license under this division, the Chief of Police, Fire Chief, Sealer of Weights and Measures and Community Development Director shall institute such investigation of the applicant as they deem necessary for the protection of the public good, including compliance with state and local health, safety, and zoning requirements, and the possession of any applicable special or temporary use permits. The City Clerk shall issue approved licenses in accordance with such findings after presentation by the applicant of a receipt of the Director of Finance showing payment of the required fee.

Sec. 9-571. Appeal of denial of license.

If the investigating authority denies an application for a license under this division, the City Clerk shall forthwith notify the applicant by certified mail return receipt requested of the denial and the reason, therefore. The notice shall indicate the date and time of the review of the denial by the Safety and Licensing Committee and the right of the applicant to appear before the committee. The Safety and Licensing Committee shall hear any person for or against granting the permit and shall report its recommendation to the Common Council, which shall grant or deny the license.

Secs. 9-572 – 9-585. Reserved.

***Cross reference(s)**--Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18, license fee for Christmas tree dealers, §9-30(7).

State law reference(s)--Cutting or transporting of evergreen trees, W.S.A. §134.60.

LICENSES, PERMITS AND BUSINESS REGULATIONS

ARTICLE XI. PEDDLERS, SOLICITORS, CANVASSERS AND OTHER TRANSIENT MERCHANTS*

DIVISION 1. GENERALLY

Secs. 9-586 – 9-610. Reserved.

DIVISION 2. COMMERCIAL SOLICITATION

Sec. 9-611. Definitions.

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

Personal solicitation includes solicitation made directly or indirectly by telephone, person-to-person contact, or by written or printed communication other than general advertising indicating a clear intent to sell goods or services at a regular place of business, and other than catalog or mail solicitation not accompanied by any other solicitation.

Solicitation selling means the selling or leasing or the offering for sale or lease of goods or services primarily for personal, family or household purposes, including courses of instruction or training, where the sale, lease or offer thereof is either personally solicited or consummated by a seller at the residence or place of business or employment of the buyer, at a seller's transient quarters, or away from the seller's regular place of business. Persons involved in solicitation selling shall be considered transient merchants under this division, except for persons involved in solicitation for charitable, religious and similar purposes as regulated under Division 4 of this article.

Transient merchant includes any peddler, solicitor, canvasser, or transient merchant, whether principal, agent or employee, who engages in, does or transacts any temporary or transient business in this City, either in one (1) location or by moving his place of business from place to place in the City, selling goods, wares or merchandise, or who solicits for such trade, and whether or not for the purpose of carrying on such business such individual hires, leases, occupies or uses a building, structure, vacant lot or railroad car or other vehicle for the exhibition or sale of such goods, wares and merchandise. The term shall include transient photographers and truckers.

Transient quarters includes hotel or motel rooms or any other place utilized as a temporary business location.

Vehicle shall mean any motor vehicle as defined by Wis. Stats. §340.01(35) or trailer as defined by Wis. Stats. §340.01(71). (Code 1965, §11.04(1); Ord 167-89, §1, 12-6-89, Ord 25-05, §1, 4-12-05)

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

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

Sec. 9-612. Exemptions from division.

(a) This division shall not include:

- (1) Persons selling services, goods or materials at wholesale to dealers in such articles;
- (2) Newsboys;
- (3) Children under eighteen (18) years of age selling magazines solely for their own profit;
- (4) Vendors of dairy products, fruit juices, bakery goods, groceries or ice products to regular customers on established routes;
- (5) Local area merchants or their employees, in delivering such goods in the regular course of business;
- (6) A farmer or truck gardener who vends, sells or disposes of or offers to sell, vend or dispose of the products of the farm or garden occupied and cultivated by him or her, except as provided in §9-621;
- (7) Artists selling art objects at art fairs or art auctions;
- (8) Governmental agents in the performance of their official duties; or
- (9) Transients operating as part of the licensed City farm market or licensed special event as identified in §9-617.

(b) This division shall not prohibit any sale required by statute or by order of any court, or prevent any person from conducting a bona fide auction sale pursuant to law.
(Code 1965, §11.04(2)(a), (b); Ord 86-94, §1, 7-20-94, Ord 25-05, §1, 4-12-05)

Sec. 9-613. License required.

No transient merchant shall vend, sell or dispose of or offer to vend, sell or dispose of goods, wares or merchandise, produce or any other thing at any place whatsoever within the City without first obtaining a license as set forth in this division.
(Code 1965, §11.04(3))

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

Sec. 9-614. Application for license; license fees.

Any person desiring to engage in business for which a license is required under this division shall obtain a license application form from the City Clerk. The application shall

state the nature of and the place where the business is to be carried on, the length of time for which a license is desired, a general description of the things intended to be sold, disposed of or contracted for, the name, date of birth and permanent address of all the employees to be covered by such license, the name and address of the person the applicant represents, and the place of residence of the applicant for the two (2) years previous. The requirements of §9-615 shall be complied with before the permit is issued. At the time of filing the application, an application fee shall be paid to the Director of Finance to cover the cost of the investigation of the facts stated in the application. The amount of the initial application fee shall be on file in the office of the City Clerk. For purposes of this section, an initial application is any application by a person who has not held a valid license under this division within three (3) years of the date of application. The application shall be sworn to by the applicant and filed with the City Clerk, and shall contain such additional information as the Chief of Police and City sealer shall require for the effective enforcement of this division and the safeguarding of the residents of the City from fraud, misconduct or abuse. Religious, charitable, patriotic or philanthropic agencies or their agents shall be required to comply with §9-641 et seq.

(Code 1965, §§11.02(18), 11.04(4)(a)(1); Ord 4-93, §1, 1-6-93; Ord 17-94, §1, 1-19-94)

Sec. 9-615. License investigation.

Upon receipt of an application for a license under this division, the Chief of Police and Sealer of Weights and Measures shall institute such investigation of the applicant as they deem necessary for the protection of the public good, and shall endorse their approval or disapproval upon the application within a reasonable time, not to exceed seven (7) working days, after it has been filed. The City Clerk shall issue approved licenses in accordance with such findings after presentation by the applicant of a receipt of the Director of Finance showing payment of the required fee. Should the investigations in this division include a recommendation for denial, the Clerk shall refer the license to the Safety and Licensing Committee for action.

(Code 1965, §11.04(4)(b); Ord 4-93, §1, 1-6-93, Ord 108-04, §1, 8-10-04)

Sec. 9-616. Bond.

If the Chief of Police determines from his or her investigation of the application for a license under this division that the interests of the City or of inhabitants of the City require protection against possible misconduct of the licensee or if the applicant is otherwise qualified but due to causes beyond his or her control is unable to supply all of the information required by §9-614, he or she may require the applicant to file with the City Clerk a bond in the sum of five hundred dollars (\$500.00) with surety acceptable to the City Clerk, running to the City, conditioned that the

applicant will fully comply with the ordinances of the City and laws of the state relating to peddlers, solicitors, canvassers or transient merchants and guaranteeing to any citizen of the City doing business with him or her that the property purchased will be delivered according to the representations of the applicant, provided that action to recover on any such bond shall be commenced within six (6) months after the expiration of the license of the principal.

(Code 1965, §11.04(4)(c), Ord 25-05, §1, 4-12-05)

Sec. 9-617. Issuance and term of license; restrictions on use; identification card.

Licenses required under this division shall be issued for six (6) month terms to run from April 1 through September 30 and October 1 through March 31. Any license that expires on December 31, 2007 may be renewed for 2008 for a nine (9) month period from January 1, 2008 through September 30, 2008. All licenses shall be numbered in the order in which they are issued and shall state clearly the place where the business may be carried on, the kind of goods, wares and merchandise to be sold, disposed of or contracted for, the dates of issuance and expiration of the license. Licenses issued under this division shall not be valid on public or private property located within the CBD Central Business District on the following special event days: Flag Day Parade, Oktoberfest and Christmas Parade, or within a two (2) block radius of any other special event held within the corporate limits of the City. No license shall be granted to a person under eighteen (18) years of age unless a street trade permit is obtained pursuant to §103.25 and no applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six (6) months has elapsed since the last previous rejection or revocation, unless he or she can show that the reason for such rejection or revocation no longer exists. Every license holder, while exercising his or her license, shall post the license in a conspicuous place on the premises or his or her person and shall exhibit the license upon demand of any officer, customer or prospective vendee. A license shall not be assignable and any holder of such license who allows it to be used by any other person shall be in violation of this division. Whenever a license is lost or destroyed, a duplicate in lieu thereof may be issued by the City Clerk under the original application upon the filing with him by the license holder of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for the recovery of the license, and upon the payment of a fee. All licensees shall be issued a photo identification card by the City Clerk at the time the license is issued. Any agent or employee of the licensee shall obtain a photo identification card for a fee. The amount of the fee for the lost license and photo identification card shall be on file in the office of the City Clerk.

(Code 1965, §11.04(4)(D); Ord 48-89, §1, 3-15-89; Ord 125-89, §2, 9-20-89; Ord 83-90, §1, 9-20-90; Ord 18-94,

§1, 1-5-94, Ord 186-02, §1, 9-24-02, Ord 107-04, §1, 8-10-04, Ord 25-05, §1, 4-12-05; Ord 160-07, §1, 12-11-07; Ord 143-11, §1, 6-7-11)

Sec. 9-618. Appeal of denial of license.

If the investigating authority denies an application for a license under this division, the City Clerk shall forthwith notify the applicant by mail of the denial and the reason therefore. The notice shall indicate the date and time of the review of the denial by the Safety and Licensing Committee and the right of the applicant to appear before the committee. The Safety and Licensing Committee shall hear any person for or against granting the license and shall report its recommendation to the Common Council, which shall grant or deny the license.

(Ord 108-04, §1, 8-10-04; Ord 7-15, §1, 2-24-15)

Sec. 9-619. Surrender of license; alteration of license; failure to display license.

On the expiration of a license issued under this division, the holder shall surrender the license to the Chief of Police. No person shall alter or change in any manner any license issued under the provisions of this division, and such alteration or the failure of the holder of the license to display the license in a conspicuous place on the premises or his or her person or to exhibit the license upon demand of any officer or customer or prospective vendee shall be cause for revocation of such license.

(Code 1965, §11.04(5), Ord 25-05, §1, 4-12-05)

Sec. 9-620. Prepayments.

All orders taken by a license holder under this division who accepts or receives payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one (1) copy shall be given to the purchaser at the time the deposit of money is paid.

(Code 1965, §11.04(6))

Sec. 9-621. Conduct of business generally – commercial solicitation licenseholders.

A transient merchant holding a license under this division shall be subject to the following:

(a) A licensee shall not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome or tainted food or foodstuffs, nor intentionally misrepresent to any prospective customer the purpose of his or her visit or solicitation, the name of the business of his or her principal, if any, the source of supply of the goods, wares or merchandise which he or she sells or offers for sale or the disposition of the proceeds or profits of his or her sales.

(b) A licensee shall not use the license provided by the City after expiration or revocation of the license.

(c) A licensee shall keep the premises in a clean and sanitary condition and the foodstuffs offered for sale well covered and protected from dirt, dust and insects. All food vendors shall comply with the requirements of state and local authorities, including, but not limited to the provisions of Article VI of this chapter.

(d) A licensee shall not have any exclusive right to any location in the public streets nor do business in a stationary location nor operate in a congested area of the public streets where such operation impedes or inconveniences public use. No licensee shall engage in the licensed business in any public park, playground, school, library or other public premises. For the purpose of this subsection, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

(e) A licensee shall not vend, sell or dispose of or offer to vend, sell or dispose of or solicit orders for the sale of goods; wares or merchandise, or enter upon the premises for any of these purposes, on any residential property posted with an appropriate sign in a conspicuous place which sign states "No Peddlers" or "No Soliciting" or words to like effect.

(f) A licensee shall not vend, sell or dispose of or offer to sell, vend, or dispose of or solicit orders for the sale of goods; wares, or merchandise, or enter upon any premises for any of these purposes, between the hours of 8:00 p.m. and 8:00 a.m.
(Code 1965, §11.04(8), Ord 104-04, §1, 7-27-04, Ord 125-04, §1, 9-21-04, Ord 25-05, §1, 4-12-05; Ord 72-18, §1, 8-7-18)

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

Sec. 9-622. Vending of products from vehicles in the public streets.

(a) No product shall be sold from a vehicle in any public street in the City of Appleton except in compliance with the requirements of this section.

(b) Any vehicle used for vending a product in any public street must be designed and constructed specifically for the purpose of vending the product or products to be vended.

(c) Each such vehicle shall be licensed for such use by the state or local agency having jurisdiction over the use of such vehicles depending upon the nature of the products sold.

(d) Each such vehicle must have valid license plates and

registration as provided by Chapter 341 of the Wisconsin Statutes.

(e) A vehicle which is operated for the purpose of selling products from the vehicle in the public streets shall be operated only by a person who shall have obtained a license under this division.

(f) In addition, the operator or the owner of the vehicle shall furnish proof of current insurance issued by an insurance company authorized to do business in the State of Wisconsin and shall maintain such insurance as a condition of licensing under this division. The insurance shall provide coverage for bodily injury, including accidental death, as well as for claims for property damage which may arise from the operations under the license. The policy limits of such insurance shall be the same as those required for a Street Occupancy Permit.

(g) Amplified music or other sounds from any vehicle used for the purpose of vending products in the public streets shall comply with the applicable requirements of Chapter 12, Article IV of this code pertaining to noise.

(h) No sales shall be made from a vehicle except from the curbside of said vehicle.

(i) No vehicle may violate any traffic or parking statute or ordinance when stopping to make a sale.
(Ord 25-05, §1, 4-12-05)

Sec. 9-623. License suspension.

The Chief of Police, Health Officer, Sealer of Weights and Measures or designees thereof may summarily suspend a license issued under this division when necessary to protect the health, safety or welfare of the public. If the licensee wishes to contest the suspension, a written notice objecting to the suspension, stating specific reasons for the objection and requesting a hearing shall be delivered to the City Clerk within five (5) business days of the suspension order being issued. Upon receipt of such objection, the matter shall be scheduled for review by the Safety and Licensing Committee. If the license holder fails to file a written objection within the stated time, the license suspension shall continue for the duration of the license or until the expiration of an established suspension period, whichever is shorter.

(Ord 161-07, §1, 12-11-07)

Secs. 9-624 – 9-625. Reserved.

**DIVISION 3. CENTRAL BUSINESS DISTRICT
STREET VENDORS**

Sec. 9-626. Purpose.

It is the intent of the Common Council to control and regulate the use of streets and sidewalks to the end that the safe use of sidewalks by pedestrians and roads by vehicles is ensured and the health, safety and general welfare of the public is protected and maintained. Consistent with this policy, the purpose of these regulations is to assure the safe and orderly performance of selling on streets and sidewalks within the Central Business District.
(Ord 73-12, §1, 8-21-12)

Sec. 9-627. Definitions.

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

Amenity strip shall mean the area between the curb and the defined pedestrian right-of-way along College Avenue between Richmond Street and Drew Street. On all other streets, amenity strip shall mean a minimum four- (4-) foot width between the curb and an eight- (8-) foot pedestrian right-of-way.

CBD street vendor means any person who sells or offers for sale any goods, wares, merchandise, or services for sale in the CBD (Central Business District) from any mobile unit which is propelled by human power, including mobile food establishments.

Mobile food establishment means a restaurant or retail food establishment where food is served or sold from a movable vehicle, push cart, or trailer which periodically or continuously changes location and requires a service base to accommodate the unit for servicing, cleaning, inspection and maintenance or except as specified in the Wisconsin Food Code. Mobile food establishment does not include a vehicle which is used solely to transport or deliver food or a common carrier regulated by the state or federal government.

Mobile sidewalk/amenity strip unit shall mean a pushcart or other device which is on wheels and of sufficiently lightweight construction that it can be moved from place to place by one (1) adult person without any auxiliary power. The device shall not be motorized so as to move on its own power.

On-street unit shall mean any vehicle or pedal-powered unit that is readily movable, and designed and equipped to prepare, serve, or sell food.

Vehicle shall mean any motor vehicle as defined by Wis.

Stats. §340.01(35) or trailer as defined by Wis. Stats. §340.01(71).
(Ord 25-05, §1, 4-12-05; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

Sec. 9-628. License and Street Occupancy Permit required.

(a) No CBD street vendor shall vend, sell or dispose of or offer to vend, sell or dispose of goods, wares or merchandise, produce or any other thing at any place whatsoever within the CBD without first obtaining a license as set forth in this division. Licensees may obtain no more than two (2) Street Occupancy Permits for any portion of the Central Business District west of Appleton Street; and no more than two (2) Street Occupancy Permits for any portion of the Central Business District east of Appleton Street.

(b) No more than eight (8) Street Occupancy Permits for mobile sidewalk/amenity strip units shall be issued between Appleton Street and Richmond Street. No more than eight (8) Street Occupancy Permits for mobile sidewalk/amenity strip units shall be issued between Appleton Street and Drew Street on College Avenue. This shall include all vendors using such units, whether vending goods or food.

(c) No more than two (2) Street Occupancy Permits for mobile sidewalk/amenity strip units shall be issued per block. One (1) block shall be defined to mean the area between intersections on a single side of the street.

(d) No more than eight (8) Licenses may be issued for on-street units.
(Ord 25-05, §1, 4-12-05; Ord 76-11, §1, 4-12-11; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12; Ord 11-22, §1m 1-19-22)

Sec. 9-629. Liability insurance.

To hold a Street Occupancy Permit, the permit holder must have in force liability insurance and must agree to indemnify, defend and hold the City, its employees and agents harmless against all claims, liability, loss, damage, or expense incurred by the City as a result of any injury to or death of any person or damage to property caused by or resulting from the activities for which the permit is granted. As evidence of liability insurance, the permit holder shall furnish a Certificate of Insurance, on a form acceptable to the City, evidencing the existence of adequate liability insurance naming the City of Appleton, its employees and agents as additional insureds in an amount not less than one million dollars (\$1,000,000). Whenever such policy is cancelled, not renewed, or materially changed the insurer and the permit holder shall notify the City of Appleton by certified mail.
(Ord 25-05, §1, 4-12-05; 76-11, §1, 4-12-11; Ord 3-12, §1,

1-10-12; Ord 73-12, §1, 8-21-12)

Sec. 9-630. Application for license; license fees.

(a) **Non-food vendors.** Any person desiring to engage in business vending goods other than mobile food establishments, for which a license is required under this division shall obtain a Street Occupancy Permit/License Application form from the Department of Public Works. The application shall state the nature of and the place where the business is to be carried on, a general description of the things intended to be sold, disposed of or contracted for, the name, date of birth and permanent address of all the employees to be covered by such license, the name and address of the person the applicant represents, and the place of residence of the applicant for the two (2) years previous. The requirements of §9-631 shall be complied with before the permit is issued. At the time of filing the application, an application fee shall be paid to the Director of Finance to cover the cost of the investigation of the facts stated in the application. The amount of the initial application fee shall be on file in the Department of Public Works. For purposes of this section, an initial application is any application by a person who has not held a valid license under this division within three (3) years of the date of application. The application shall be sworn to by the applicant and filed with the Department of Public Works, and shall contain such additional information as the Chief of Police and City Sealer shall require for the effective enforcement of this division and the safeguarding of the residents of the City from fraud, misconduct or abuse. Religious, charitable, patriotic or philanthropic agencies or their agents shall be required to comply with §9-641 et seq.

(b) **Food vendors.** Any person desiring to engage in business as a mobile food establishment, for which a license is required under this division shall first obtain a Mobile Food Service License from the Department of Health. The Department of Health will advise the applicant of the available locations for mobile sidewalk/amenity strip units. The applicants then obtain a Street Occupancy Permit/License Application form from the Department of Public Works. The application shall state the nature of and the place where the business is to be carried on, a general description of the foodstuffs to be sold, the name, date of birth and permanent address of all the employees to be covered by such license, the name and address of the person the applicant represents, and the place of residence of the applicant for the two (2) years previous. The requirements of §9-631 shall be complied with before the permit is issued. At the time of filing the application, an application fee shall be paid to the Director of Finance to cover the cost of the investigation of the facts stated in the application. The amount of the initial application fee shall be on file in the Department of Public Works. For purposes of this section, an initial application is any application by a person who has not held a valid license under this division within three (3) years of the date

of application. The application shall be sworn to by the applicant and filed with the Department of Public Works, and shall contain such additional information as the Chief of Police shall require for the effective enforcement of this division and the safeguarding of the residents of the City from fraud, misconduct or abuse. Religious, charitable, patriotic or philanthropic agencies or their agents shall be required to comply with §9-641 et seq.

(Ord 25-05, §1, 4-12-05; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

Sec. 9-631. License investigation.

Upon receipt of an application for a license under this division, the Chief of Police and Sealer of Weights and Measures shall institute such investigation of the applicant as they deem necessary for the protection of the public good, and shall endorse their approval or disapproval upon the application within a reasonable time, not to exceed seven (7) working days, after it has been filed. The Department of Public Works shall issue approved Street Occupancy Permits/Licenses in accordance with such findings after presentation by the applicant of a receipt of the Director of Finance showing payment of the required fee. Should the investigations in this division include a recommendation for denial, the Department of Public Works shall refer the license to the Municipal Services Committee for action.

(Ord 25-05, §1, 4-12-05; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

Sec. 9-632. Bond.

If the Chief of Police determines from his or her investigation of the application for a license under this division that the interests of the City or of inhabitants of the City require protection against possible misconduct of the licensee or if the applicant is otherwise qualified but due to causes beyond his or her control is unable to supply all of the information required by §9-630, he or she may require the applicant to file with the City Clerk a bond in the sum of five hundred dollars (\$500) with surety acceptable to the Department of Public Works, running to the City, conditioned that the applicant will fully comply with the ordinances of the City and laws of the state relating to peddlers, solicitors, canvassers or transient merchants and guaranteeing to any citizen of the City doing business with him or her that the property purchased will be delivered according to the representations of the applicant, provided that action to recover on any such bond shall be commenced within six (6) months after the expiration of the license of the principal.

(Ord 25-05, §1, 4-12-05; Ord 76-11, §1, 4-12-11; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

Sec. 9-633. Issuance and term of Street Occupancy Permit/License; restrictions on use; identification card.

(a) In order to obtain a CBD Street Vendor Street Occupancy Permit/License, the license holder must exhibit a valid certificate of insurance as required by §9-628 of this article. Licenses and Street Occupancy Permits required under this division shall be issued on a calendar year basis beginning on January 1 and expiring on December 31.

(b) Street Occupancy Permits/Licenses for CBD Street Vendors using mobile sidewalk/amenity strip units shall be issued on a calendar year basis beginning on January 1 and expiring on December 31. At the time of the application for a Street Occupancy Permit, there shall be notification to the business at the address applied for, and the adjacent business owners.

(c) Mobile food establishments with on-street units shall not receive a Street Occupancy Permit, however they will require a license under this article, the fee for which shall be the same as for the Street Occupancy Permit/License.

(d) All Street Occupancy Permits/Licenses shall be numbered in the order in which they are issued and shall state clearly the place where the business may be carried on, including the location of mobile sidewalk/amenity strip units used by CBD street vendors, as well as the kind of goods, wares and merchandise to be sold, disposed of or contracted for, the dates of issuance and expiration of the license.

(e) The Department of Public Works, by the method they deem appropriate, shall clearly designate the location on the amenity strip each mobile sidewalk/amenity strip unit is licensed to use for sales. In no circumstance shall any of said licensed areas be within twenty (20) feet of another mobile sidewalk/amenity strip unit's licensed area.

(f) Licenses issued under this division shall not be valid on the following special event days: Flag Day Parade, License to Cruise/Octoberfest, and Christmas Parade; and no vendor shall operate within the Farmers Market solely under this permit. Any CBD vendor must obtain space from the Farmers Market organizers to operate within those confines. No CBD vendor may operate within a two (2) block radius of any other special event held within the corporate limits of the city. No license shall be granted to a person under eighteen (18) years of age unless a street trade permit is obtained pursuant to W.S.A. §103.25 and no applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six (6) months has elapsed since the last previous rejection or revocation, unless he or she can show that the reason for such rejection or revocation no longer exists. Every license holder, while exercising his or her license, shall post the license in a

conspicuous place on the premises or his or her person and shall exhibit the license upon demand of any officer, customer or prospective vendee. A license shall not be assignable and any holder of such license who allows it to be used by any other person shall be in violation of this division. Whenever a license is lost or destroyed, a duplicate in lieu thereof may be issued by the Department of Public Works under the original application upon the filing with him or her by the license holder of an affidavit setting forth the circumstances of the loss and what, if any, search has been made for the recovery of the license, and upon the payment of a fee. All licensees shall be issued a photo identification card by the City Clerk at the time the license is issued. Any agent or employee of the licensee shall obtain a photo identification card. The amount of the fee for the lost license and photo identification card shall be on file in the office of the City Clerk.

(g) Any licensee under this division who wishes to change the location of mobile sidewalk/amenity strip units licensed under this division shall be allowed to request one (1) change in location per unit during a license year. The licensee must relinquish the Street Occupancy Permit/License for the abandoned location, and obtain a Street Occupancy Permit/License for the new location. An administrative fee, on file with the Department of Public Works shall be charged for the change and re-issuance of the license. The new location must meet all the applicable restrictions under this division.

(Ord 285-05, §1, 4-12-05; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

Sec. 9-634. Appeal of denial of license.

If the investigating authority denies an application for a license under this division, the Department of Public Works shall forthwith notify the applicant by certified mail, return receipt requested, of the denial and the reason therefore. The notice shall indicate the date and time of the review of the denial by the Municipal Services Committee and the right of the applicant to appear before the Committee. The Municipal Services Committee shall hear any person for or against granting the license and shall report its recommendation to the Common Council, which shall grant or deny the license.

(Ord 25-05, §1, 4-12-05; Ord 76-11, §1, 4-12-11; Ord 3-12, §1, 1-10-12, Ord 73-12, §1, 8-21-12)

Sec. 9-635. Revocation of license.

The Common Council may revoke any license under this division pursuant to §9-29 for violation by any vendor or his or her employee or agent of any provision of this division or any ordinance of the City which renders future vending inimical to the public health, safety or welfare, or for fraud or misrepresentation in solicitation under this division.

(Ord 25-05, §1, 4-12-05; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

Sec. 9-636. Renewal of CBD Street Vendor Licenses.

In order to renew a CBD Street Vendor Street Occupancy Permit/License, the license holder must exhibit to the Department of Public Works a valid certificate of insurance as required by §9-629 above. A CBD Street Vendor using a mobile sidewalk/amenity strip unit who wishes to retain the same location upon renewal of a license must renew their Street Occupancy Permit/License no later than December 15, otherwise the location will be made available to any licensee. The same procedure for initial application shall apply to renewals.

(Ord 25-05, §1, 4-12-05; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

Sec. 9-637. Surrender of license; alteration of license; failure to display license.

On the expiration of a license issued under this division, the holder shall surrender the license to the Chief of Police. No person shall alter or change in any manner any license issued under the provisions of this division, and such alteration or the failure of the holder of the license to display the license in a conspicuous place on the premises or his or her person or to exhibit the license upon demand of any officer or customer or prospective vendee shall be cause for revocation of such license.

(Ord 25-05, §1, 4-12-05; Ord 76-11, §1, 4-12-11; Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

Sec. 9-638. Prepayments.

All orders taken by a license holder under this division who accepts or receives payment or deposit of money in advance of final delivery shall be in writing, in duplicate, stating the terms thereof and the amount paid in advance, and one (1) copy shall be given to the purchaser at the time the deposit of money is paid.

(Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

Sec. 9-639. Conduct of business generally – CBD street vendors.

A CBD street vendor holding a license under this division shall be subject to the following:

(a) A licensee shall not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome or tainted food or foodstuffs, nor intentionally misrepresent to any prospective customer the purpose of his or her solicitation, the name of the business of his or her principal, if any, the source of supply of the goods, wares or merchandise which he or she sells or offers for sale or the disposition of the proceeds or profits of his or her sales.

(b) A licensee shall not use the license provided by the City after expiration or revocation of the license.

(c) A licensee shall keep the premises in a clean and sanitary condition and the foodstuffs offered for sale well covered and protected from dirt, dust and insects. All food vendors shall comply with the requirements of state and local authorities, including, but not limited to, the provisions of Article VI of this chapter.

(d) A licensee shall not operate in a congested area where such operation impedes or inconveniences public use. No licensee shall engage in the licensed business in any public park, playground, school, library or other public premises. For the purpose of this subsection, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

(e) A licensee may vend, sell or dispose of, or offer to sell, vend, or dispose of goods, wares, or merchandise, between the hours of 8:00 a.m. and 9:00 p.m., except between Drew Street and Richmond Street on College Avenue, where sales shall be allowed between 8:00 a.m. and 4:00 a.m.

(f) The operating area shall not exceed thirty-two (32) square feet of sidewalk/amenity strip area, including the area of the mobile unit, the operator, and when externally located, a trash receptacle.

(g) The length of the mobile unit shall not exceed eight (8) feet.

(h) The height of the mobile unit, excluding canopies, umbrellas, or transparent enclosures, shall not exceed six (6) feet.

(i) The mobile unit shall be entirely self-contained in regards to gas, water, electricity, and equipment required for operation of the unit. This includes any signage associated with the vendor.

(j) No person may conduct business on a sidewalk in any of the following places:

- (1) Within twenty (20) feet of the intersection of the sidewalk with any other sidewalk except on the amenity strip on College Avenue between Drew Street and Richmond Street.
- (2) Within ten (10) feet of the extension of any building entrance or doorway to the curb line.
- (3) Within fifty (50) feet of the main entrance of any business selling same or similar products during the hours said business is open for the

LICENSES, PERMITS AND BUSINESS REGULATIONS

sale of said products, unless written permission is granted by said business and such documentation is placed on file with the Department of Public Works.

- (4) Once a vendor is licensed, and a Street Occupancy Permit has been obtained, the change of use of those businesses in buildings within the fifty (50) feet limitation noted above shall not affect an existing license nor the timely renewal of the same.

(k) All persons conducting business on a sidewalk or amenity strip must pick up any paper, cardboard, wood or plastic containers, wrappers, or any litter in any form that is deposited by any person on the sidewalk or street within twenty-five (25) feet of the place of conducting business. Each person conducting business on a sidewalk or amenity strip under the provisions of this division shall carry a suitable container for placement of such litter by customers or other persons.

(l) Vendors shall maintain their sales location in a clean, hazard-free condition, and shall not discharge materials onto the sidewalk, gutters or storm drain. All liquid residue must be cleaned up, or in the alternative, protective matting may be placed on the amenity strip to absorb any liquid residue. Said matting must be removed when the vendor closes for the day.

(m) No person may make any loud unreasonable noise of any kind by vocalization or otherwise for the purpose of advertising or attracting attention to his or her wares.

(n) No person shall conduct business as defined herein at a location other than that designated on his or her Street Occupancy Permit/License.

(o) No permitted mobile sidewalk/amenity strip units shall be left unattended on a sidewalk or amenity strip nor remain on the sidewalk or amenity strip between 4:00 a.m. and 8 a.m.

(Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12)

Sec. 9-640. Vending of products from vehicles or other on-street unit in the public streets.

(a) No food shall be sold from a vehicle other or on-street unit in any public street in the City of Appleton except in compliance with the requirements of this section and §9-639 above.

(b) Any vehicle or other on-street unit used for vending food in any public street must be designed and constructed specifically for the purpose of vending the product or products to be vended.

(c) Each such vehicle or other on-street unit used for

vending food shall be licensed for such use by the Department of Health.

(d) If such vehicle or other on-street unit is a motor vehicle, it must have valid license plates and registration as provided by Chapter 341 of the Wisconsin Statutes.

(e) A vehicle or other on-street unit which is operated for the purpose of selling food from the unit in the public streets shall be operated only by a person who shall have obtained a license under this division.

(f) In addition, the operator or the owner of any motor vehicle shall furnish proof of current insurance issued by an insurance company authorized to do business in the State of Wisconsin and shall maintain such insurance as a condition of licensing under this division. The insurance shall provide coverage for bodily injury, including accidental death, as well as for claims for property damage which may arise from the operations under the license. The policy limits of such insurance shall be the same as those required in §9-629 above.

(g) Amplified music or other sounds from any vehicle used for the purpose of vending products in the public streets shall comply with the applicable requirements of Chapter 12, Article IV of this code pertaining to noise.

(h) No sales shall be made from a vehicle except from the curbside of said vehicle.

(i) No sales shall be made within fifty (50) feet of the main entrance of a licensed food establishment during the hours said business is open to the public unless written permission is granted by an authorized representative of that establishment to the permit holder.

(j) No vehicle may violate any traffic or parking statute or ordinance when stopping to make sales. This includes plugging parking meters, if applicable and not remaining in a location for a longer period of time than the meter allows. Meter bags will not be issued to license holders under this article.

(k) No on-street unit may park adjacent to a sidewalk café or an establishment with a Street Occupancy Permit for tables and chairs when the tables and chairs are present on the amenity strip.

(Ord 3-12, §1, 1-10-12; Ord 73-12, §1, 8-21-12; Ord 12-22, §1, 1-19-22)

Editor's Note: Chapter 9, Division 3 was repealed and recreated via ordinance 3-12 adopted by the Common Council on January 1, 2012, published January 9, 2012 and became effective January 10, 2012.

Editor's Note: Chapter 9, Division 3 was repealed and recreated via ordinance 73-12 adopted by the Common Council on August 15, 2012, published August 20, 2012 and became effective August 21, 2012.

DIVISION 4. CHARITABLE SOLICITATION*

Sec. 9-641. Definitions.

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

Charitable organization means any of the following:

- (1) An organization that is described in §501(b)(3) of the Internal Revenue Code and that is exempt from taxation under §501(a) of the Internal Revenue Code.
- (2) A person who is or purports to be established for a charitable purpose.

Charitable purpose means any of the following:

- (1) A purpose described in §501(c)(3) of the Internal Revenue Code.
- (2) A benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civil or other eleemosynary.

Solicit means to request directly or indirectly, a contribution and to state or imply that the contribution will be used for a charitable purpose or will benefit a charitable organization.

Solicitation means the act or practice or soliciting, whether or not the person soliciting receives any contribution. "Solicitation" includes any of the following methods of requesting or securing a contribution:

- (1) An oral or written request.
- (2) An announcement to the news media or by radio, television, telephone or other transmission of images or information concerning the request for contributions by or for charitable organization or charitable purpose.
- (3) Distribution or posting of a handbill, written advertisements, or other publications which directly or indirectly or by implication seeks contributions.
- (4) The sale of or offer or attempt to sell a membership or advertisement, advertising place, book, card, tag, coupon, device, magazine, merchandise, prescription, flower,

ticket, candy, cookie or other tangible item in connection with any of the following:

- a. A request for financial support for a charitable organization or charitable purpose.
- b. The use of or reference to the name of a charitable organization as a reason for making a purchase.
- c. A statement that all or part of the proceeds from the sale will be used for a charitable purpose or will benefit a charitable organization.

(Ord 120-94, §1, 9-21-94; Ord 35-95, §1, 4-19-95)

Editor's note – Ord 120-94, §1, adopted 9-21-94, amended Div. 3, in its entirety, to read as herein set out in §9-641—§9-647.

Sec. 9-642. Exemptions from division.

This division shall not apply to solicitations conducted among the members of any association or organization by the members thereof where no remuneration is paid for making such solicitations, or if the solicitations are in the form of collections or contributions at regular assemblies or services of any association or organization.

(Ord 120-94, §1, 9-21-94)

Sec. 9-643. Permit required.

No person shall solicit or request anything of value for a purported charitable, religious, patriotic, philanthropic, social service, welfare, benevolent, educational, civic or fraternal purpose without a permit therefore from the City Clerk issued to him or his principal.

(Ord 120-94, §1, 9-21-94)

Sec. 9-644. Application for permit; issuance of permit.

(a) **Application.** Application for a solicitation permit under this division shall be made by the person in charge of or responsible for all activities of all activities of solicitors within the City. Such applications shall state:

- (1) The name and address of the applicant.
- (2) The services provided for a fee or the merchandise to be solicited.
- (3) The dates when such solicitations will be made.

(b) **Granting.** The City Clerk shall issue a permit upon completion of the application.

(c) **Fee.** The amount of the fee for a permit under this division shall be on file with the office of the City Clerk.

(d) **Form of permit.** The form of the permit shall be prescribed by the City Clerk and the permit shall contain such information as the City Clerk shall consider reasonably necessary to protect the public from improper solicitation.
(Ord 120-94, §1, 9-21-94)

Sec. 9-645. Expiration of permit.

A permit issued under this division shall expire on the last day of solicitation stated in the application, which shall be not more than ninety (90) days after the date of application unless extended by the City Clerk upon a showing of unnecessary hardship for not to exceed an additional ninety (90) days.
(Ord 120-94, §1, 9-21-94)

Sec. 9-646. Revocation of permit.

The Common Council may revoke any permit under this division pursuant to §9-29 for violation by any solicitor or his principal or agent of any provision of this division or any ordinance of the City which renders future solicitations inimical to the public health, safety or welfare, or for fraud or misrepresentation in solicitation under this division.
(Ord 120-94, §1, 9-21-94)

Sec. 9-647. Hours of solicitation.

No person shall solicit door to door between the hours of 8:00 p.m. and 8:00 a.m.
(Ord 120-94, §1, 9-21-94; Ord 36-95, §1, 4-19-95; Ord 73-18, §1, 8-7-18)

Secs. 9-648 – 9-670. Reserved.

ARTICLE XII. PUBLIC SWIMMING POOLS*

Sec. 9-671. Definition.

For purposes of this article, public swimming pool shall mean any premises or place as defined or classified by Wisconsin Administrative Code, §SPS 390.03.
(Code 1965, §7.20(2), Ord 23-03, §1, 1-21-03; Ord 25-12, §1, 3-7-12)
Cross reference(s)--Definitions and rules of construction generally, §1-2.

Sec. 9-672. License required.

No person shall own, operate or manage a public swimming pool without obtaining a license from the Health Department.
(Code 1965, §7.20(1))
Cross reference(s)--Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

Sec. 9-673. Fees.

(a) The fee for a public swimming pool license is on file with the Department of Health.

(b) In addition, the applicant must pay any state administrative fees, the amount of which is on file with the Department of Health.
(Code 1965, §7.15(F); Ord 100-90, §1(f), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 43-93, §1, 3-17-93)

Sec. 9-674. Application for license.

Application for a license required in this article shall be made to the Health Department upon a form furnished by the Department and shall contain such information which the Department may prescribe and require and shall be accompanied by payment of the applicable fee.
(Code 1965, §7.15(2); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Sec. 9-675. Issuance of license generally.

Licenses required under this article, when approved by the Health Department, shall be issued by the Health Officer. A selective or restrictive permit may be issued by the Health Officer on his determination of conformance with appropriate standards and good public health practices.
(Code 1965, §7.15(3); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 7-08, §1, 2-26-08)
***Cross reference(s)**--Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; private swimming pools, §4-541 et seq.

Sec. 9-676. Inspection required prior to granting of license; fee.

A license will not be granted under this article to an operator of a new establishment or to a new operator of an existing establishment without a preinspection. A preinspection fee will be assessed for each establishment according to the schedule on file with the Health Department.

(Code 1965, §7.15(10); Ord 100-90, §1J(10), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 44-93, §1, 3-17-93)

Sec. 9-677. Transfer of license; issuance to agent or employee.

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

(Code 1965, §7.15(9); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Sec. 9-678. Expiration and renewal of license.

Except where otherwise provided, every Health Department license shall terminate or expire on June 30 of each year and may be renewed annually thereafter. The application for renewal shall be filed with the Health Department on or before June 30, together with payment of the required fee. The fee for said license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Health Department. If the annual renewal fee has not been paid on or before June 30, an additional late payment fee shall be required, the amount of which is on file with the Health Department. Establishments operating on July 15 without a proper license shall be ordered closed by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18. Each violation and each day a violation continues or occurs shall constitute a separate offense.

(Code 1965, §7.15(4))(Ord 100-90, §1J(4), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92, Ord 106-95, §1, 11-15-95; Ord 74-96, §1, 9-4-96)

Sec. 9-679. Suspension or revocation of license.

The Health Officer may suspend or revoke any license issued pursuant to this article for violations of ordinances or laws regulating the licensed activity and for other good cause.

(Code 1965, §7.15(8)(a); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Sec. 9-680. Right of entry; testing of samples.

The Health Officer may enter any establishment required to be licensed in this article at all reasonable times to inspect the premises, secure samples or specimens, examine and copy documents, obtain photographs, or take any other action he deems necessary to properly enforce the provisions of applicable laws regulating such business or activity. Samples of water from any licensed premises may be taken and examined by the Health Officer at such time as he deems necessary, for detection of microbiological quality, chemical disinfection, or any other enforcement purposes. Standards and definitions set forth in Wisconsin Administrative Code ATCP §76 are hereby adopted as reference and incorporated as part of this section.

(Code 1965, §7.15(5); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91, Ord 23-03, §1, 1-21-03; Ord 85-16, §1, 11-8-16)

Sec. 9-681. Correction of violations; citations.

Whenever the Health Officer finds that any establishment required to obtain a license in this article is not operating or equipped in any manner required by ordinances or laws regulating such establishment, the Health Officer may notify, in writing, the person operating the premises, specifying the requirements of such ordinance or law, and requiring that such business comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Health Officer. The Health Officer may also request the issuance of citations for any such violations pursuant to the provisions of §1-17.

(Code 1965, §7.15(6))

Sec. 9-682. Emergency powers of Health Officer.

Whenever the Health Officer has reasonable or probable cause to believe that any sanitary condition, equipment, premises or method of operation thereof creates a danger to public health, the Health Officer may issue a temporary order prohibiting the continued operation of the premises or any part thereof which creates the immediate danger to health. The Health Officer may suspend any license without notice whenever the licensed premises constitutes an immediate health hazard.

(Code 1965, §7.15(7); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Sec. 9-683. Appeals.

Any person aggrieved by the denial of a license or by suspension or revocation of a license required under this article by the Health Officer or by any temporary suspension or any other order may appeal any such order to

the Board of Health within thirty (30) days of suspension, revocation or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order pending determination of the appeal. The Board of Health may affirm, modify, or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings relating to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record
(Code 1965, §7.15(8)(b); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

ARTICLE XIII. VEHICLES FOR HIRE

DIVISION 1. GENERALLY

Secs. 9-695 – 9-719. Reserved.

Sec. 9-684. State sanitation regulations adopted.

All public swimming pools and licensees under this article shall be subject to and comply with the provisions of Wisconsin Administrative Code, SPS 390 or ATCP §76 as applicable.

(Code 1965, §7.20(3); Ord 147-94, §1, 12-7-94; Ord 76-96, §1, 9-4-96, Ord 23-03, §1, 1-21-03; Ord 25-12, §1, 3-7-12; Ord 86-16, §1, 11-8-16)

Cross reference(s)--Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; permits, §4-546.

Sec. 9-685. Authority to close pools.

In addition to the closing criteria set forth in Wisconsin Administrative Code, ATCP §76, the Health Officer may order any public swimming pool closed if the following conditions exist:

- (1) Bacteriological or chemical analysis of water samples exceeds those standards listed in Wisconsin Administrative Code, ATCP §76.30 or the presence of *Pseudomonas aeruginosa* or any other microbiological pathogen capable of transmitting a communicable disease is detected; or
- (2) Any imminent health or safety hazard is identified.

(Code 1965, §7.20(3), Ord 23-03, §1, 1-21-03; Ord 87-16, §1, 11-8-16)

Secs. 9-686 – 9-695. Reserved.

DIVISION 2. TAXICABS AND SIMILAR SERVICES*

Sec. 9-720. Definitions.

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

Taxicab shall mean any vehicle (1) carrying passengers for hire (2) on a prearranged or demand basis (3) at a metered, mileage-based or per trip fare.

Limousine shall mean any vehicle (1) used for the business of carrying passengers for hire (2) on a prearranged and not on a demand basis (3) at a premium fare.

Premium Fare shall mean a rate based on an hourly rental of not less than one hour. A mileage charge may be assessed for transportation of the vehicle only for the time before and after the transportation service is provided and only in addition to the minimum hourly charge as provided by this definition.

Taxicab or Limousine shall not include the following:

- (a) Buses, funeral cars, ambulances or medical transport vehicles;
- (b) Vehicles operating on established routes which are regulated by the Public Service Commission of Wisconsin; and
- (c) Vehicles rented to be driven by the renters or renter's agent, commonly known as "rent-a-cars". (Ord 204-02, §1, 10-22-02)

Sec. 9-721. Licenses – required; exemptions.

(a) No person, firm or company shall conduct a taxicab or limousine business within the City nor shall any person solicit passengers to be transported for hire within the City unless duly licensed to do so by the Common Council. A commercial quadricycle, as defined in §340.01(8m) of the Wisconsin Statutes, shall be licensed as a limousine.

(b) Subsection (a) of this section shall not apply to taxicabs or limousines that both pick up and drop off passengers within the City if the services are licensed in another municipality.
(Code 1965, §11.09(1), Ord 204-02, §1, 10-22-02, Ord 17-18, §1, 2-13-18)

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

Sec. 9-722. Same – application; issuance; renewal.

(a) **Application.** Application for a license to convey passengers for hire shall be made in writing to the City upon the appropriate form furnished by the City Clerk. The application shall give the address from which business is conducted and shall be signed by the owner of the vehicle. The application shall state the number of vehicles proposed to be covered by such license.

(b) **Hearing; approval by Council.** The application shall be submitted by the City Clerk to the Common Council, which shall set a date for a public hearing before the Safety and Licensing Committee to examine the public convenience and necessity of granting such license. The City Clerk shall notify the applicant and all interested parties of the time and place set for the hearing. Not later than thirty (30) days after the date of the hearing the committee shall submit to the Common Council its recommendation as to whether public convenience and necessity will be served by the granting of the application. No license shall be granted until the Common Council has determined that the public convenience and necessity will be served by the service proposed in the application for license. The Common Council may hold such further hearings and procure such additional information as it may deem necessary or advisable in making such determination.

(c) **Renewal.** All licenses issued by the Common Council may be renewed from year to year upon payment of the annual license fee and deposit of a sufficient policy of insurance as required by §9-723; provided that, if charges are filed with the Common Council against any license holder, such license shall not be granted until after a hearing is had and affirmative action is taken as in the case of original application. Whenever charges are filed against any licensee, a temporary license shall be issued by the City Clerk to permit operation pending final action by the Common Council.

(d) **Fee; approval by Police Chief.** The license application shall be accompanied by the license fee. The amount of the fee shall be on file in the office of the City Clerk. Before a license is granted by the Common Council, such application shall be approved or disapproved by the Police Chief and the City Sealer or designees thereof. (Code 1965, §11.09(2)--(5); Ord 21-94, §1, 1-5-94, Ord 83-99, §1, 10-24-99)

Cross reference(s)--Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.
State law reference(s)--Authority to license, W.S.A. §349.24.

Sec. 9-723. Insurance.

No vehicle for the conveyance of passengers shall be operated or licensed under this division until the applicant for the license deposits with the City Clerk a sufficient

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policy of insurance issued by an insurance company licensed to do business in the state which shall provide that the insurance company shall be liable for damages in the minimum amount of five hundred thousand dollars (\$500,000) representing a combined single limit for bodily injury and property damage liability for any accident due to the negligent operation of such vehicle. Said policy shall also include the City of Appleton as an insured. The policy or contract is to be approved by Human Resources for the City before it is filed and shall contain a provision that the policy may not be canceled before the expiration of its term except upon thirty (30) days' written notice to the City Clerk.

(Code 1965, §11.09(7); Ord 30-93, §1, 3-3-93, Ord 83-99, §1, 10-24-99)

Sec. 9-724. Off-street parking.

Before a license to convey passengers for hire will be issued under this division, the applicant must provide adequate off-street parking for the vehicles to be licensed. Such off-street parking shall be stated in the application for a license.

(Code 1965, §11.09(11))

Sec. 9-725. Posting of fares.

The fares that are established by any licensee under this division for the transportation of passengers shall be printed in letters not less than one-half (½) inch high and posted in a conspicuous place in all taxicabs. All advertised and business practices of licensees shall be in compliance with Wisconsin Trade Practices Laws, and enforced by the City Sealer or designee thereof.

(Code 1965, §11.09(9), Ord 83-93, §1, 10-24-99)

Sec. 9-726. Identification of taxicabs.

Each taxicab licensed under this division shall have painted in a prominent place on its exterior a number by which it may be easily identified. The numbers shall be placed on licensed taxicabs according to the specifications of and under the direction of the City Sealer or designee thereof.

(Code 1965, §11.09(6), Ord 83-99, §1, 10-24-99)

Sec. 9-727. Inspection of taxicabs and limousines.

The Police Department may inspect taxicab or limousine at any time for the purpose of discovering defects that might make them unsafe for the transportation of passengers. When defects are found, the taxicab or limousine shall not be operated for the transportation of passengers until the taxicab or limousine has been repaired and until the repairs have been approved by the Police Department.

(Code 1965, §11.09(8); Ord 48-92, §1, 5-6-92, Ord 204-02, §1, 10-22-02)

Sec. 9-728. Taxicab/limousine driver's license – required; term.

No person shall drive or operate a taxicab or limousine unless such person is licensed by the State and in accordance with this division. The taxicab/limousine licenses shall be valid for two (2) years from date of issuance.

(Ord 49-89, §1, 3-15-89, Ord 204-02, §1, 10-22-02)

Sec. 9-729. Same – Application; issuance; revocation.

(a) **Application.** In order for a person to be licensed under this division, the person must be at least eighteen (18) years of age and must make written application to the City Clerk on forms furnished by the City Clerk, giving the applicant's name, address and age, whether or not he has been convicted of a felony, whether or not his driver's license has ever been revoked or suspended, and the type of state driver's license that has been issued to him, and stating his experience and the number of the state driver's license. The application must be accompanied by the license fee, the amount of which is on file in the office of the City Clerk, for the initial license or any renewal license. Licenses are issued for a two- (2-) year license period from date of issuance. Applications for commercial quadricycle operation must also include a description of the route or routes for approval by the Police Department. The Police Department may approve, deny, or amend the proposed routes. An applicant may appeal the decision of the Police Department regarding commercial quadricycle route or routes to the Safety and Licensing Committee by filing an appeal with the City Clerk within fifteen (15) days after the Police Department mails a notice of denial or amendment to the Applicant. A copy of the approved route or routes will be maintained on file in the office of the City Clerk. After the Police Department has granted approval of the license, the City Clerk shall issue a photo identification card, which must be displayed on the licensee's person whenever he is driving or operating a taxicab or limousine. The cost of the identification card is included in the application fee. The identification card may be replaced for a fee, the amount of which is on file in the office of the City Clerk, if it is lost or stolen.

(b) **Issuance.** No license under this division will be issued or renewed if any of the following apply:

- (1) The applicant is the holder of a state occupational driver's license.
- (2) The applicant has been convicted of operating while intoxicated in the past five (5) years.
- (3) The applicant has more than three (3) moving traffic violations in the past year.

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- (4) The applicant has more than three (3) traffic accidents in the past year, regardless of fault.
- (5) The applicant was convicted of an offense that substantially relates to the licensed activity. Such offenses include, but are not limited to, burglary, sex offenses, drug offenses, possession or sale of stolen property. A license can be granted if the conviction is reversed or if the person is granted a pardon for the offense. In determining whether the circumstances of the conviction are substantially related, the Chief of Police or designee shall consider the number of convictions, the nature and seriousness of the crime(s), whether the crime(s) involved violence, theft, or other evidence of lack of trustworthiness with money, whether the crime(s) involved driving, the age and maturity of the individual at the time of the conviction, the amount of time elapsed since the conviction, and any evidence of personal rehabilitation.
- (6) The applicant has been declared a habitual criminal.

granting the license and shall report its recommendation to the Common Council, which shall grant or deny the license.

(Ord 204-02, §1, 10-22-02, Ord 8-15, §1, 2-24-15)

Secs. 9-731 – 9-745. Reserved.

(c) The license of any applicant who makes a false statement in his application shall be void and the license shall be surrendered to the City Clerk or any member of the Police Department.

(d) Any driver licensed under this section who shall be found guilty or shall plead guilty to violations of the traffic code of the City, or to violations of subsection (e), three (3) times within any one (1) year shall have his license automatically revoked.

(e) Any operator of a commercial quadricycle who is found to be in violation of an approved route, shall be subject to a penalty as provided in §1-16. It shall be a violation of an approved route to operate a commercial quadricycle with one (1) or more passengers outside of a route approved by the Police Department, or as approved by the Safety and Licensing Committee upon appeal.
(Code 1965, §11.09(10); Ord 49-89, §1, 3-15-89; Ord 22-94, §1, 1-5-94, Ord 204-02, §1, 10-22-02, Ord 18-18, §1, 2-13-18)

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

Sec. 9-730. Same – appeal of denial.

If the investigating authority denies an application for a license, the City Clerk shall forthwith notify the applicant by mail of the denial and the reason therefore. The notice shall indicate the date and time of the review of the denial by the Safety and Licensing Committee and the right of the applicant to appear before the committee. The Safety and Licensing Committee shall hear any person for or against

DIVISION 3. WRECKER SERVICES

Sec. 9-746. Finding and purpose.

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

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

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

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

(d) Vehicles towed subsequent to an arrest.
(Code 1965, §22.04(1) - (10); Ord 31-91, §1(1) - (10), 3-20-91, Ord 96-00, §1, 10-7-00, Ord 101-00, §1, 11-18-00, Ord 39-02, §1, 3-25-02, Ord 11-05, §1, 1-19-05; Ord 17-17, §1, 1-10-17)

Sec. 9-747. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 9-748. Eligibility.

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

(a) A State of Wisconsin Licensed Carrier Permit and any other licenses required by the State.

(b) Ownership or the exclusive lease of, at minimum, one (1) flatbed tow truck and one (1) class "A" wrecker equipped with a wheel lift.

- (1) Each vehicle must be registered, licensed and maintained in a safe and serviceable condition at all times, with proof available upon request.
- (2) Each vehicle must be insured at rates determined by the City of Appleton's Risk Manager, with proof on file with the City of Appleton.
- (3) Each vehicle must be inspected annually by a qualified technician, with proof available upon request.

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

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

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

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

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

- (1) Grant the Appleton Police Department the right to inspect the place of business, equipment and vehicles without notice during regular business hours and with reasonable notice during non-business hours, and
- (2) Indemnify, defend and hold harmless the City of Appleton and its employees, elected and appointed officials, agents and volunteers from and against all claims, suits, damages, costs, losses and expenses (including attorney's fees) in any manner resulting from, arising out of, or connected to being on the rotating call list.

(3) Attend an annual meeting held by the Appleton Police Department.

(4) Ensure that employees with convictions substantially related to their ability to provide safe, reliable and trustworthy service pursuant to this Article are prohibited from providing a service pursuant to this Article.

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

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

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

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

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

- (1) If the application is approved, the towing company will be placed onto the rotating call list within seven (7) business days.
- (2) If the application is denied, the company will be informed by the Chief of Police or designee in writing within seven (7) business days after the conclusion of the investigation.
 - a. A towing company may reapply one (1) additional time in a calendar year.
 - b. A denial shall not prevent the towing company from re-applying in subsequent years.

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

Sec. 9-750. Responsibilities.

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

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

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

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

(2) Assignments shall be deemed waived by the non-response or non-acceptance of an assignment by a towing company and that company will be placed at the end of the list.

(3) If an assignment results in a no tow, the towing company shall not charge for the no tow and the company will be placed at the top of the list.

(4) If an assignment results in a partial tow, the towing company may, in the company's discretion, charge for the partial tow at the rate provided for in Sec. 9-751(a). If the company does not charge, the company will be placed at the top of the list. If the company does charge, the company will be placed at the bottom of the list.

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

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

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

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

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

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

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

Sec. 9-751. Fees, payment.

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

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

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

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

Sec. 9-752. Suspension and revocation.

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

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

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

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

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

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

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

Secs. 9-752 – 9-774. Reserved.

**ARTICLE XV. RECREATIONAL AND
EDUCATIONAL CAMPS AND CAMPGROUNDS**

DIVISION 1. GENERALLY

Sec. 9-775. Application for license.

Application for a license required in this article shall be made to the Health Department upon a form furnished by the Department and shall contain such information which the Department may prescribe and require and shall be accompanied by payment of the applicable fee.
(Ord 123-92, §1, 11-4-92)

Sec. 9-776. Issuance of license generally.

Licenses required under this article, when approved by the Health Department, shall be issued by the Health Officer. A selective or restrictive permit may be issued by the Health Officer on his determination of conformance with appropriate standards and good public health practices.
(Ord 123-92, §1, 11-4-92)

Sec. 9-777. Inspection required prior to granting of license; fee.

A license will not be granted under this article to an operator of a new establishment or to a new operator of an existing establishment without a preinspection. A preinspection fee will be assessed for each establishment according to the schedule on file with the Health Department.
(Ord 123-92, §1, 11-4-92; Ord 108-95, §1, 11-15-95)

Sec. 9-778. Transfer of license; issuance to agent or employee.

No license issued under this article may be transferred unless otherwise provided by the ordinances of the City. No license shall be issued to or used by any person acting as agent for or in the employ of another.
(Ord 123-92, §1, 11-4-92)

Sec. 9-779. Expiration and renewal of license.

Except where otherwise provided, every Health Department license shall terminate or expire on June 30 of each year and may be renewed annually thereafter. The application for renewal shall be filed with the Health Department on or before June 30, together with payment of the required fee. The fee for said license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Health Department. If the annual renewal fee has not been paid on or before June 30, an additional late payment fee shall be required, the amount of which is on file with the Health Department.

Establishments operating on July 15 without a proper license shall be ordered closed by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18. Each violation and each day a violation continues or occurs shall constitute a separate offense.

(Ord 123-92, §1, 11-4-92; Ord 106-95, §1, 11-15-95; Ord 74-96, §1, 9-4-96)

Sec. 9-780. Suspension or revocation of license.

The Health Officer may suspend or revoke any license issued pursuant to this article for violations of ordinances or laws regulating the licensed activity and for other good cause.

(Ord 123-92, §1, 11-4-92)

Sec. 9-781. Right of entry; testing of samples.

The Health Officer may enter any establishment required to be licensed in this article at all reasonable times to inspect the premises, secure samples or specimens, examine and copy documents, obtain photographs, or take any other action he deems necessary to properly enforce the provisions of applicable laws regulating such business or activity. Samples of food, drink or water from any licensed premises may be taken from any licensed premises and examined by the Health Officer at such times as he deems necessary, for detection of unwholesomeness, adulteration, microbiological quality, or any other enforcement purposes. Adulteration and microbiological quality standards and definitions set forth in W.S.A. §97.02, or to the State Department of Agriculture, Trade and Consumer Protection, Food Division's Policies and Procedures Manual Sections 14.1 and 14.2 are hereby adopted by reference and incorporation as part of this section.

(Ord 123-92, §1, 11-4-92, Ord 24-03, §1, 1-21-03)

Sec. 9-782. Correction of violations; citations.

Whenever the Health Officer finds that any establishment required to obtain a license in this article is not operating or equipped in any manner required by ordinances or laws regulating such establishment, the Health Officer may notify, in writing, the person operating the premises, specifying the requirements of such ordinance or law, and requiring that such business comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Health Officer. The Health Officer may also request the issuance of citations for any such violations pursuant to the provisions of §1-17.

(Ord 123-92, §1, 11-4-92)

Sec. 9-783. Emergency powers of Health Officer.

Whenever the Health Officer has reasonable or probable cause to believe that any food, sanitary condition, equipment, premises or method of operation thereof creates a danger to public health, the Health Officer may issue a temporary order prohibiting the sale or movement of food for any purpose, or an order prohibiting the continued operation of the premises or any part thereof which creates the immediate danger to health. The Health Officer may suspend any license without notice whenever the licensed premises constitutes an immediate health hazard.
(Ord 123-92, §1, 11-4-92)

Sec. 9-784. Appeals.

Any person aggrieved by the denial of a license or by suspension or revocation of a license required under this article by the Health Officer or by any temporary suspension or any other order may appeal any such order to the Board of Health within thirty (30) days of suspension, revocation or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such other pending determination of the appeal. The Board of Health may affirm, modify, or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings relating to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record
(Ord 123-92, §1, 11-4-92)

Secs. 9-785 – 9-795. Reserved.

DIVISION 2. RECREATIONAL AND EDUCATIONAL CAMPS

Sec. 9-796. Definitions.

For the purpose of this division, a recreational and educational camp shall mean a premise, including temporary and permanent structures, which is operated as overnight living quarters where both food and lodging or facilities for food and lodging are provided for children or adults, or both children and adults, for a period which includes four (4) or more consecutive nights of lodging, for a planned program of recreation or education, and which is offered free of charge or for payment of a fee by a person or by the state or a local unit of government.
(Ord 123-92, §1, 11-4-92)

Sec. 9-797. License required; fees.

No person shall operate a recreational or educational camp without obtaining a license from the Health Department. The fee for the license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Department of Health.
(Ord 123-92, §1, 11-4-92; Ord 109-95, §1, 11-15-95)

Sec. 9-798. State sanitation regulations adopted.

All recreational and educational camps and licenses under this division shall comply with Wisconsin Administrative Code ATCP §78.01 through §78.22, which are hereby adopted by reference and incorporated as part of this division.
(Ord 123-92, §1, 11-4-92, Ord 24-03, §1, 1-21-03; Ord 88-16, §1, 11-8-16)

Secs. 9-799 – 9-810. Reserved.

DIVISION 3. CAMPGROUNDS

Sec. 9-811. Definitions.

For the purposes of this definition, a “campground” shall mean any parcel or tract of land owned by a person, the state or local government, which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four (4) or more camping units, or by one (1) to three (3) camping units if the parcel or tract of land is represented as a campground.

Camping unit means any portable device, not more than four hundred (400) square feet in area, used as a temporary dwelling, including but not limited to a camping trailer, motor home, bus, van, pick-up truck or tent.

Special event campground means a single event such as a fair, rally or festival involving the gathering of camping units for a maximum of seven (7) consecutive nights.
(Ord 123-92, §1, 11-4-92)

Sec. 9-812. Exemptions.

The following are exempt from obtaining a license under this article:

Where independent camping unit(s) are utilized in conjunction with a business event, such as a carnival.
(Ord 123-92, §1, 11-4-92)

Sec. 9-813. License required; fees.

No person shall operate a campground without obtaining a license from the Health Department. The fee for said license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Health Department.
(Ord 123-92, §1, 11-4-92, Ord 110-95, §1, 11-15-95)

Sec. 9-814. State sanitation regulations adopted.

All campgrounds under this division shall comply with Wisconsin Administrative Code ATCP §79.01 through ATCP §79.27, which are hereby adopted by reference and incorporated as part of this division.
(Ord 123-92, §1, 11-4-92, Ord 24-03, §1, 1-21-03; Ord 89-16, §1, 11-8-16)

ARTICLE XVI. FARMERS MARKETS

Sec. 9-815. Definitions.

Farmers market is defined as a specified location with two (2) or more booths or stalls operated on a non-continuous basis by individuals selling either products of the farm or garden or any combination of products of the farm and garden and commercially processed foods, household products, crafts and handmade items.
(Ord 83-94, §1, 7-20-94; Ord 37-95, §1, 4-19-95)

Sec. 9-816. License required.

Each farm market shall have an individual designated as agent. Each market shall be licensed annually by the City. The term shall be a maximum duration of six (6) months.
(Ord 83-94, §1, 7-20-94; Ord 14-22, §1, 2-16-22)

Sec. 9-817. Application for license; license fees.

The agent of each farm market shall complete a license application obtained from the City Clerk. The completed application with license fee shall be submitted to the City Clerk. The fee for a license under this division shall be on file with the City Clerk.
(Ord 83-94, §1, 7-20-94)

Sec. 9-818. License investigation.

Upon receipt of an application and license fee, the clerk shall forward the application to the appropriate departments for their recommendations. The recommendations shall either approve or deny the license. If all recommendations are for approval, the City Clerk may immediately issue said license. Otherwise, the applications will be referred to the Safety and Licensing Committee.
(Ord 83-94, §1, 7-20-94, Ord 108-04, §1, 8-10-04)

Sec. 9-819. Rules of operation.

Each farm market, and the operators of any booths or stalls therein, shall comply with the rules and regulations for a farm market on file with the Appleton Health Department. These rules state the manner in which any food or other products may be handled or sold, and the trade practices that shall be adhered to. The licensed farm market and its agent shall be responsible for the compliance of any individual operating within their market.
(Ord 83-94, §1, 7-20-94)

Sec. 9-820. Violations.

A violation of this article by a seller shall constitute a violation by the agent.
(Ord 83-94, §1, 7-20-94)

Secs. 9-821 – 9-829. Reserved.

ARTICLE XVII. ESCORTS AND ESCORT SERVICES

Sec. 9-830. Definitions.

(a) For the purposes of this article, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise.

Escort means any person who, for a fee, commission, salary, hire, profit, payment or other monetary considerations accompanies or offers to accompany another person to or about social affairs, entertainment or places of amusement or consorts with another person about any place of public resort or within any private quarters or agrees to privately model lingerie, perform a striptease or perform in a nude or semi-nude state for another person or persons.

Escort service means service provided by any person who, for a fee, commission, salary, hire, profit, payment or other monetary consideration, furnishes or offers to furnish names of persons who may accompany other persons to or about social affairs, entertainment or places of amusement, or who may consort with others about any place of public resort or within any private quarters or agrees to privately model lingerie, perform a striptease or perform in a nude or semi-nude state for another person or persons.

Person means any individual and is also extended and applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate.
(Ord 128-03, §1, 8-12-03)

Sec. 9-831. Exemptions.

This section does not apply to businesses, agencies and persons licensed by the State of Wisconsin or the City of Appleton pursuant to a specific statute or ordinance, and employees employed by a business so licensed and which performs an escort or an escort service function as a service merely incidental to the primary function of such profession, employment or business and which do not hold themselves out to the public as an escort or an escort service.

Sec. 9-832. License required.

(a) No escort service shall operate or provide service in the City of Appleton without first obtaining an escort service license issued by the City of Appleton.

(b) No person shall escort in the City of Appleton unless employed by an escort service licensed by the City of Appleton and properly registered pursuant to §9-839.

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(c) Any person, partnership or corporation which desires to operate or provide services from more than one (1) location must have a license for each location.

(d) No license or interest in a license may be transferred to any person, partnership or corporation.

(e) No person may advertise indicating that an escort service is available in the City of Appleton unless that service possesses a valid license. No escort service may in any manner advertise its services as licensed by the City of Appleton.

(f) No escort service shall provide a person with the actual services of an escort at its establishment address except when the escort service has met the standards and requirements of adult-oriented establishments and is in possession of an adult-oriented establishment permit as required in §23-390, et seq.
(Ord 128-02, §1, 8-12-03, Ord 47-05, §1, 5-10-05)

Sec. 9-833. Application for license.

(a) Any person desiring to secure a license under this article shall make application to the City Clerk.

(b) The application for a license shall be on a form approved by the City Clerk. An applicant for a license (which shall include each partner and limited partner of a partnership applicant, each officer and director of a corporate applicant, each stockholder holding ten percent (10%) or more of the stock or beneficial ownership and every other person who is interested directly in the ownership or operation of the business) shall furnish the following information under oath:

- (1) Name and address, including all aliases;
- (2) Written proof that the individual is at least eighteen (18) years of age;
- (3) All residential addresses of the applicant for the past ten (10) years;
- (4) The business, occupation or employment of the applicant for ten (10) years immediately preceding the date of application;
- (5) Whether the applicant previously operated in this or any other state, county or city under an escort service license or similar business license; whether the applicant has ever had such a license revoked or suspended, the reason therefore and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation;
- (6) All convictions and pending charges of felony,

misdemeanor or ordinance violations, except minor traffic violations;

- (7) Fingerprints and photograph registration with the Appleton Police Department;
- (8) The address of the escort service to be operated by the applicant;
- (9) If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the name and address of the registered agent and all officers and directors of the corporation.

(c) **Additional information.** Each service shall furnish the following information under oath at the time of application:

- (1) The trade name of the escort service. An escort service may operate under only one (1) trade name per license.
- (2) The complete address of the proposed business location with a copy of the deed, lease, or other document pursuant to which the applicant occupies or will occupy, such premises.
- (3) The service's Federal Employer Identification Number.
- (4) A written plan setting forth:
 - a. Description of the nature of the business to be conducted and services to be offered;
 - b. Hours that the service will be open to the public;
 - c. Copies of contracts to be used with escorts and customers.

(d) A receipt from the Finance Department showing payment of the appropriate fee shall be submitted with the application. The amount of the fee shall be on file in the office of the City Clerk.
(Ord 128-03, §1, 8-12-03, Ord 47-05, §1, 5-10-05)

Sec. 9-834. Standards for license issuance.

(a) To receive a license to operate an escort service, an applicant must meet the following standards:

- (1) If the applicant is an individual:
 - a. The applicant shall be at least eighteen (18) years of age;

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- b. Subject to Ch. 111, Wis. Stats., the applicant shall not have been convicted of or pleaded *nolo contendere*, or no contest, to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction;
 - c. The applicant shall not have been convicted of a felony, misdemeanor or ordinance violation which substantially relates to the licensed activity;
 - d. The applicant shall not have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the application.
- (2) If the applicant is a corporation:
- a. All officers, directors and others required to be named under §9-833(b) shall be at least eighteen (18) years of age;
 - b. Subject to Ch. 111, Wis. Stats., no officer, director or other person to be named under §9-833(b) shall have been convicted of or pleaded *nolo contendere*, or no contest, to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction;
 - c. No officer, director or other person required to be named under §9-833(b) shall have been convicted of a felony, misdemeanor or ordinance violation which substantially relates to the licensed activity.
 - d. No officer, director or other person required to be named under §9-833(b) shall have been found to have previously violated this ordinance within five (5) years immediately preceding the date of the application.
- (3) If the applicant is a partnership, joint venture or any other type of organization where two (2) or more persons have a financial interest:
- a. All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age;
 - b. No persons having a financial interest in the partnership, joint venture or other type of organization shall, subject to Ch. 111, Wis. Stats., have been convicted of or pleaded *nolo contendere*, or no contest, to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction;
 - c. No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of a felony, misdemeanor or ordinance violation which substantially relates to the licensed activity;
 - d. No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this ordinance within five (5) years immediately preceding the date of the application.
- (4) No license shall be issued unless the Appleton Police Department has investigated the applicant's qualifications to be licensed.
- (5) If any charges are currently pending which, if resulting in a conviction, would disqualify the applicant pursuant to subsections (1), (2) or (3) above, the Safety and Licensing Committee may postpone action on the application until such time as the charge is resolved. Should the Safety and Licensing Committee fail to act upon an application within sixty (60) days of the resolution of the charge, the application shall be deemed granted.
- (Ord 128-03, §1, 8-12-03)
- Sec. 9-835. Renewal of license.**
- (a) Every license issued pursuant to this article will terminate on December 31st following its issuance, unless sooner revoked. Application for renewal shall be on a form provided by the City Clerk.
- (b) No renewal application will be considered filed in the office of the City Clerk unless it is accompanied by the receipt of the Finance Department showing payment of the appropriate fee. The amount of the renewal fee shall be on file in the office of the City Clerk.
- Sec. 9-836. Denial of application.**
- Whenever an initial application is denied, the duties of the City Clerk and the rights of the applicant shall be as set forth in §9-26 of the Appleton Municipal Code.
- Sec. 9-837. Suspension, revocation or non-renewal of license.**
- (a) Any license issued under this article may be suspended for not less than ten (10) days nor more than ninety (90) days, or revoked, pursuant to §9-29, Appleton

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Municipal Code. The same provisions shall apply to denial of an application for renewal of a license issued under this article.

(b) Any violation of the requirements of this article shall be grounds for revocation of a license issued under this article.

Sec. 9-838. Responsibilities of the operator.

(a) The operator of an escort service shall maintain a register of all employees or independent contractors, showing the name and aliases used by the employee, home address, birth date, sex, telephone numbers, social security number and date of employment and termination. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(b) *Records and reports required.* Every escort and escort service shall:

- (1) Provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the services to be performed.
- (2) Maintain a legible written record of each transaction of any escort furnished to or arranged for on behalf of any person or customer. The record shall show the date and hour of each transaction, the name, address and telephone number of the person requesting an escort, and the name of every escort furnished.
- (3) The record required by subsections (1) and (2) shall be kept available and open for inspection by the Police Department during business hours.

(c) The operator of an escort service shall make the register of employees, along with any other records required to be maintained under this article, available immediately for inspection by police upon demand of a member of the Appleton Police Department at all reasonable times.

(d) Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct. The operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused

the omission.

(e) Any act or omission of any employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(f) No person shall escort or agree to escort a person under the age of eighteen (18) years.
(Ord 128-03, §1, 8-12-03, Ord 47-05, §1, 5-10-05)

Sec. 9-839. Registration of employees.

(a) All operators or employees working for any escort service and independent contractors shall, prior to beginning employment or contracted duties, obtain a photo identification card from the City Clerk. Prior to issuance, the person shall provide:

- (1) Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer;
- (2) Photographs and fingerprinting with the Appleton Police Department.

(b) Upon registration, the Appleton Police Department will provide to each registered employee or independent contractor an identification card, provided by the City Clerk, containing the employee's or independent contractor's photograph identifying the person as such, which shall be kept available for production upon request.

(c) All identification cards shall expire on December 31st following its issuance.

(d) The applicant shall pay a fee, the amount of which is on file in the office of the City Clerk.

(e) Any escort employed by more than one (1) escort service shall submit a separate registration for each service by which the escort is employed.
(Ord 98-97, §1, 12-5-97, Ord 128-03, §1, 8-12-03)

Sec. 9-840. Penalties.

Any person found to have violated any provision of this article shall be subject to a forfeiture of not less than two thousand dollars (\$2,000) and not more than five thousand dollars (\$5,000).

Sec. 9-841. Severability.

If any provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the other provisions of same.

**ARTICLE XVIII. TATTOO AND BODY PIERCING
ESTABLISHMENTS**

Secs. 9-842 – 9-849. Reserved.

Sec. 9-850. Authority and purpose

(a) This article is promulgated under the authority of Wis. Stat. §463.16 (2021-22), as amended from time to time, for the purpose of regulating tattooists, tattoo establishments, body piercers and body piercing establishments in order to protect public health and safety.

(b) *State sanitation regulations adopted.* All tattoo and body piercing establishments, practitioners, and licenses under this division shall be subject to and comply with the provisions of Wis. Admin. Code, SPS § 221 (2021-22) as amended from time to time, which are hereby adopted by reference and incorporated as part of this article.
(Ord 90-16, §1, 11-8-16; Ord 135-23, §1, 10-10-23)

Sec. 9-851. Reserved.

(Ord 64-18, §1, 7-24-18; Ord 135-23, §1, 10-10-23)

Sec. 9-852. Scope.

Applicability. This chapter applies to all tattooists, body piercers, tattoo establishments and body piercing establishments.
(Ord 135-23, §1, 10-10-23)

Sec. 9-853. Right of entry.

The Health Officer may enter any establishment required to be licensed in this article at all reasonable times to inspect the premises, view the practice (with patron's permission), secure samples or specimens, examine and copy documents, obtain photographs or take any other action deemed necessary to properly enforce the provisions of applicable laws regulating such business or activity.

Sec. 9-854. Responsibility of the operator.

(a) Every act or omission by an employee or practitioner constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, the operator shall be liable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(b) Any act or omission of any employee constituting a violation of the provisions of this ordinance shall be deemed an act or omission of the operator for purposes of determining whether the license shall be suspended, revoked, or not renewed.

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Sec. 9-855. Correction of violations, citations.

Whenever the Health Officer finds that any establishment, tattooist or body piercer required to obtain a license in this article is not operating or equipped in any manner required by ordinances or laws regulating such establishment or activity, the Health Officer may notify, in writing, the person operating the premises, or performing the activity, specifying the requirements of such ordinance or law, and requiring that such business or practitioner comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Health Officer. The Health Officer may also issue citations for any such violations pursuant to the provisions of Appleton Municipal Code Sec. 1-17(c).

Secs. 9-856 — 9-859. Reserved.

Sec. 9-860. Generally.

(a) No person shall operate a tattoo establishment, body piercing establishment or combination tattoo and body piercing establishment without first obtaining a license from the Health Department.

(b) Application for a license required in this article shall be made to the local health department upon a form furnished by the local health department and shall contain such information that the local health department may prescribe and require and shall be accompanied by payment of the application fee. In addition, the applicant must pay any state administrative fees, the amount of which is on file with the local health department.

(c) Within thirty (30) days after receiving a completed application for a license, the local health department or its agent shall either approve the application and issue a license or deny the application. If an application for a license is denied, the local health department shall give the applicant reasons, in writing, for the denial and provide information about how the applicant may appeal that decision.

(d) A license will not be granted under this article to an operator of a new establishment or to a new operator of an existing establishment without a preinspection. A preinspection fee will be assessed for each establishment according to the schedule on file with the local health department.

(e) The operator of a tattoo or body-piercing establishment shall promptly notify the local health department of his or her intention to cease operations and shall supply the local health department with the name and mailing address of any new operator. A license is not transferable. A new operator will submit an application for a new license. No license shall be issued to or used by any person acting as agent for or in the employ of another.
(Ord 135-23, §1, 10-10-23)

Sec. 9-861. Expiration and renewal of license.

(a) Except where otherwise provided, every Health Department license shall terminate or expire on June 30th of each year and may be renewed annually thereafter.

(b) The application for renewal shall be filed with the Health Department on or before June 30th, together with payment of the required fee. The fee for said license shall be on file with the local health department.

(c) In addition, the applicant must pay any state administrative fees, the amount of which is on file with the local health department. If the annual renewal fee has not been paid on or before June 30th, an additional late payment fee shall be required; the amount of which is also on file

with the local health department. Establishments operating on July 15th without a proper license shall be ordered closed by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18, Appleton Municipal Code. Each violation and each day a violation continues or occurs shall constitute a separate offense.

(Ord 64-18, §1, 7-24-18; Ord 135-23, §1, 10-10-23)

Sec. 9-862. Suspension or revocation of license.

The Health Officer may suspend or revoke any license issued pursuant to this article for violations of ordinances or laws regulating activity and for other good cause.

(Ord 64-18, §1, 7-24-18)

(The next page is 695)

Sec. 9-863. Emergency powers of health officer.

Whenever the Health Officer has reasonable or probable cause to believe that the premises or method of operation thereof creates a danger to public health, the Health Officer may issue a temporary order prohibiting continued operation of the premises or any part thereof which creates the immediate danger to health. The Health Officer may suspend any license without notice whenever the licensed premises, tattooist, and/or body piercer constitute an immediate health hazard.

Sec. 9-864. Appeals.

Any person aggrieved by the denial of a license or by suspension or revocation of a license required under this article by the Health Officer or by any temporary suspension or any other order may appeal any such order to the Board of Health within thirty (30) days of denial, suspension or revocation of a license or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order pending determination of appeal. The Board may affirm, modify or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings related to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record.

Secs. 9-865 – 9-879. Reserved.

MISCELLANEOUS OFFENSES

Chapter 10

Miscellaneous Offenses

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***Cross reference(s)**--Fireworks in public parks and recreation areas, §13-83.

MISCELLANEOUS OFFENSES

Sec. 10-1. Penalty for violation of chapter; responsibility for costs of damage to public property; party to a violation and attempt.

(a) **Penalties.** Any person who shall violate any provision of this chapter shall upon conviction thereof be punished as provided in §1-16. If a conviction is based upon subsection (c) or (d), the person is subject to the same penalties provided in §1-16.

(b) **Damages.** In addition to any penalty imposed, in §1-16, any person who shall cause physical damage to or destroy any public property shall be liable for costs of replacing or repairing such damages or destroyed property. The parents of any unemancipated minor child who causes such damage may be held liable for the cost of replacing or repairing such damages or destroyed property in accordance with W.S.A. §895.035.

(c) **Parties to a violation.** Whoever is concerned in the commission of a violation of this chapter is a principal and may be charged with and convicted of the commission of the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted or has been convicted of some other offense based on the same act. A person is concerned in the commission of the violation if the person directly commits the violation, intentionally aids or abets the commission of or is a party to a conspiracy with another to commit it, or advises, hires, counsels or otherwise procures another to commit it.

(d) **Attempt.** Whoever attempts to commit a violation of this chapter may be charged with and convicted of the violation. An attempt to commit a violation of this chapter requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute such violation and that the actor does act toward the commission of the violation which demonstrates unequivocally, under all the circumstances, that the actor formed that intent and would commit the violation except for the intervention of another person or some extraneous factor.
(Code 1965, §8.15, Ord 29-03, §1, 2-25-03; Ord 105-06, §1, 9-12-06)

Sec. 10-2. Discharge of dangerous weapons.

(a) It is unlawful for any person, except a sheriff, constable, police officer or their deputies, to fire or discharge any firearm, rifle, spring or air gun of any description or tipped arrow within the City.

(b) **Exceptions.** Subsection (a) shall not apply to any of the following:

- (1) The maintenance and use of duly supervised rifle or pistol ranges or shooting galleries or

archery ranges approved by the Chief of Police.

(2) Hunting with a bow and arrow or crossbow.

- a. Hunting is not permitted within the city of Appleton except with a bow and arrow or crossbow. Hunting does not include target practice.
- b. It shall be unlawful for a person to hunt with a bow and arrow or crossbow within a distance of one hundred (100) yards from any permanent structure used for human occupancy on another person's land. This restriction shall not apply if the person who owns the land on which the building is located allows the hunter to hunt with a bow and arrow or crossbow within the specified distance of the building.
- c. When hunting with a bow and arrow or crossbow, a person shall shoot or discharge the arrow or bolt from the respective weapon toward the ground.
- d. When hunting with a bow and arrow or crossbow, no person shall shoot or discharge the arrow or bolt from the respective weapon in a manner that may endanger the life, limb or property of another or will traverse any part of any street, alley, trail, public grounds or parks.
- e. It shall be unlawful for a person to hunt on any portion of land owned or leased by the City of Appleton.
- f. When hunting with a bow and arrow or crossbow, a person shall follow all Wisconsin State Statute and DNR regulations pertaining to bow hunting.

(c) **Penalties.** Any person that violates any of the provisions of this section may be subject to a forfeiture of no more than five hundred dollars (\$500) for the first offense and no more than one thousand dollars (\$1,000) for the second and subsequent offenses. Each day that a violation occurs shall be considered a separate offense.
(Code 1965, §8.01(1); Ord 118-06, §1, 10-10-06; Ord 6-14, §1, 3-11-14)

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

State law reference(s) – Weapons, W.S.A. §941.20.

Sec. 10-3. Adoption of state law regarding carrying of weapons.

W.S.A. §939.22(10) and §941.23 regarding weapons, exclusive of the penalty, is hereby adopted and made an offense punishable as a violation of this Code.

(Code 1965, §8.01(2))

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

Sec. 10-4. Sale of dangerous weapons to minors.

No person shall buy for, sell or give away to any minor any dangerous weapon, without first having obtained the written consent of the parent or guardian of such minor. For purposes of this section, the term “dangerous weapon” shall mean and include the following instruments: blackjack, billy, sandclub, pistol, revolver, any instrument which impels a missile by compressed air, spring or other means, any weapon in which loaded or blank cartridges are used, cross knuckles of any metal, nunchaku or nunchuck sticks, throwing stars or shurikens.

(Code 1965, §8.01(4); Ord 38-16, §1, 3-22-16)

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

Sec. 10-5. Sale and discharge of fireworks.

(a) **Adoption of state law.** W.S.A. §167.10 regulating the sale and use of fireworks, exclusive of any penalty imposed thereby, is adopted by reference and made a part of this chapter as though set forth in full.

(b) **Permits.** Fireworks other than those prohibited by the laws of the state may be used and displayed in open fields, parks, rivers, lakes and ponds by public authorities, fair associations, amusement parks, park boards, civic organizations and other groups of individuals when a permit for such display has been granted by the Mayor. All applications shall be referred to the Fire Chief for investigation and no permit shall be granted unless the Mayor, from the report of the Fire Chief, determines that the applicant will use the fireworks in a public exhibition, that all reasonable precautions will be exercised with regard to the protection of the lives and property of all persons, and that the display will be handled by a competent operator and conducted in a suitable, safe place and manner.

(Code 1965, §8.01(5))

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

Sec. 10-6. Operation of boats.

(a) **Adoption of state law.** Except as otherwise provided in this section, the provisions of W.S.A. §30.50 to §30.80 shall apply to the operation of boats on the navigable waters of the City and such statutes are adopted by reference and made a part of this section. A violation of such statutes shall be a violation of this Code. The navigable waters of the City are hereby determined to be those waters of the Fox River lying within the City limits.

(b) **Speed of watercraft.** No person driving, operating or using any power-propelled vessel, craft or float shall operate said vessel, craft or float at a speed in excess of slow no wake speed, on that portion of the Fox River from the Appleton Yacht Club south to the Appleton City limits.

(c) **Reckless operation.** No person shall drive, operate or use any vessel, craft or float on the navigable waters of the City in a careless, negligent or reckless manner so as to endanger the life, property or persons of others.

(d) **Mufflers.**

- (1) No person shall drive, operate or use any vessel, craft or float propelled by an internal combustion engine using gas, gasoline, naphtha or other like fuel unless it is equipped with an underwater exhaust or other muffling device so constructed and used so as to adequately muffle the noise of the explosion. Such internal combustion engine or motor shall be installed on such vessel in such a manner that any underwater exhaust shall exhaust under water at all times; provided, however, that the regulations of this subsection shall not apply when the Mayor issues a permit for a regatta, motorboat race, or exhibition speed boat trial.
- (2) No person shall drive, operate or use any vessel, craft or float propelled by an internal combustion engine equipped with a muffling device which has been altered in any manner from the manufacturer's specifications so as to increase its emission of noise.
- (3) Every boat propelled by gasoline or other motor power operated on the Fox River in the City shall be equipped with a muffler at all times in good working order sufficient to prevent excessive or unusual noise. It shall be unlawful to operate any such boat so propelled by gasoline or other motive power with the muffler off or cutout open on the Fox River in the City.

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(e) **Lights.** No person shall drive, operate or use any vessel or craft from sunset to sunrise unless such vehicle or craft carries the lights prescribed by W.S.A. §30.61.

(f) **Life preservers.** No person shall drive, operate or use any vessel, craft or float unless it carries at least one (1) United States Coast Guard approved life preserver or life belt or ring buoy or cushion or other similar United States Coast Guard approved device for each person on board, so placed as to be readily accessible.

(g) **Overloading vessels.** No person shall drive, operate or use any vessel, craft or float which is loaded with passengers or cargo beyond its safe carrying capacity.

(h) **Permits.** Permits for motorboat regattas, motorboat races, exhibition speedboat trials and water ski or aquaplane exhibitions shall be issued by the City through the Mayor upon application made in writing; provided that in the Mayor's opinion such particular use of the river can be carried out in an orderly fashion, safely and equally convenient, as near as may be, to all vessels and watercraft whatsoever. If the Mayor denies a request for a permit then such request shall, upon written demand of the applicant to the Mayor, be referred to the Common Council for final determination.

(Code 1965, §8.01(9); Ord 74-94, §1, 7-20-94)

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

Sec. 10-7. Operation of aircraft.

No person operating an aircraft over the City shall:

- (1) Engage in trick or acrobatic flying.
- (2) Except for the purpose of taking off or landing, operate at a height of less than three thousand (3,000) feet.
- (3) Intentionally drop any object from the aircraft.

(Code 1965, §8.01(10))

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

Sec. 10-8. Residential picketing; unlawful assembly.

(a) **Declaration.** It is declared that the protection and preservation of the home is the keystone of democratic government; that the public health and welfare and the good order of the community require that members of the community enjoy in their homes and dwellings a feeling of well-being, tranquility and privacy, and when absent from their homes and dwellings, carry with them the sense of security inherent in the assurance that they may return to the enjoyment of their homes and dwellings; that the practice of picketing before or about residences and

dwellings causes emotional disturbance and distress to the occupants, obstructs and interferes with the free use of public sidewalks and public ways of travel; that such practice has as its object the harassing of such occupants; that without resort to such practice full opportunity exists and under the terms and provisions of this section, will continue to exist for the exercise of freedom of speech and other Constitutional rights; and that the provisions enacted in this section are necessary for the public interest to avoid the detrimental results set forth in this section and are enacted by the Common Council pursuant to the provisions of W.S.A. §62.11(5).

(b) **Picketing residence unlawful.** It is unlawful for any person to engage in picketing before or about the residence or dwelling of any individual.

(c) **Unlawful assembly.** W.S.A. §947.06 is adopted and made a part of this chapter by reference as though fully set forth in this section.

(Code 1965, §8.13)

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

Sec. 10-9. Adoption of state law regarding crimes against public peace, order and other interest.

W.S.A. §947.01 et seq., regarding crimes against public peace, order and other interests, exclusive of the penalty, are hereby adopted and made an offense punishable as a violation of this Code.

(Code 1965, §8.02(1), Ord 29-03, §1, 2-25-03)

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

Sec. 10-10. Adoption of state law regarding resisting or obstructing officer.

W.S.A. §946.41 regarding resisting or obstructing officer, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(Code 1965, §8.02(4)(a)--(c), Ord 29-03, §1, 2-25-03)

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

Sec. 10-11. Misuse of 911.

(a) No person shall use the 911 Emergency Telephone System for regular business or non-emergency calls.

(b) No person shall dial 911 Emergency Telephone number to report an emergency, knowing that the fact or situation reported does not exist.

(c) No person shall use the 911 Emergency Telephone System to knowingly make a false report to law enforcement for suspicious or illegal activity, when that individual has been intentionally selected by the person because of the person's belief or perception of the individual's race, religion, color, disability, sexual orientation, national origin, ancestry, gender, or gender identify.

(d) Any person who violates any provision of this section shall be subject to a penalty as provided in Sec. 1-16.
(Ord 26-05, §1, 4-12-05; Ord 92-07, §1, 5-22-07; Ord 101-20, §1, 9-2-20)

Editor's Note: This section, Sec. 10-11, Police dogs, was repealed due to the adoption of the new Animal Ordinance.

Editor's Note: This new section, Misuse of 911, was created and adopted by the Common Council in May 2007.

Sec. 10-12. Adoption of state law regarding impersonation of peace officer.

W.S.A. §946.70 regarding impersonating a peace officer, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(Code 1965, §8.02(5))

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

Sec. 10-13. Adoption of state law regarding battery.

W.S.A. §940.19(1) regarding battery, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(Code 1965, § 8.02(6))

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

Sec. 10-14. Possession or consumption of alcoholic beverages on highway, public property lot, or school grounds.

No person shall drink from, open a container of, or have in his possession an open container of fermented malt beverage or intoxicating liquor on a public highway including the sidewalks adjacent thereto, in or on a publicly owned or privately owned parking lot to which the public is

invited, or on any school grounds within the City, except when any of the following apply:

(a) The area has been temporarily licensed for consumption of intoxicating liquor or fermented malt beverages.

(b) A person licensed to serve fermented malt beverages or intoxicating liquor who, while working as an employee of a licensed established, is carrying an open container of a fermented malt beverage or intoxicating liquor between a licensed establishment and a sidewalk café for the sole purpose of serving patrons within the sidewalk café.

(Code 1965, §8.02(10); Ord 112-91, §1, 11-6-91; Ord 75-05, §1, 6-21-05)

Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; alcoholic beverages, §9-51 et seq.; streets, sidewalks and other public places, ch. 16.

Sec. 10-15. Public grounds to be vacated during certain hours.

No person shall be in or lounge about any park, parkway, school ground or other public recreation ground or place between 11:00 p.m. and 6:00 a.m., and such areas shall be closed to the public during those hours.

(Code 1965, §8.03(2))

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

Sec. 10-16. Reserved.

Editor's Note: This section, Sec. 10-16, smoking in City-owned buildings, was repealed by the Smoke Free Indoor Air Ordinance, Ord 35-05, §1, effective 7-1-05.

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Sec. 10-17. Adoption of state law regarding receiving stolen property.

W.S.A. §943.34 regarding receiving stolen property, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this code. (Ord 98-10, §1, 7-13-10)

Sec. 10-18. Adoption of state law regarding gambling.

W.S.A. §945.04 on offenses regarding gambling, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code. (Code 1965, §8.03(1))

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

Sec. 10-19. Adoption of state law regarding indecent conduct.

W.S.A. §944.20 regarding indecent conduct, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code. (Code 1965, §8.03(3), Ord 29-03, §1, 2-25-03)

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

Sec. 10-20. Adoption of state law regarding prostitution.

W.S.A. §944.30 prohibiting prostitution, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code. (Code 1965, §8.03(4))

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

Sec. 10-21. Offering or engaging in sexual contact for compensation.

(a) It shall be unlawful and prohibited for any person to pay a fee or receive a fee, directly or indirectly, or to offer or ask for anything of value, for touching or offering to touch the sexual parts of another either directly or by employing a mechanical or electrically operated device for the purpose of arousing or gratifying the sexual desire of either party.

(b) It shall be unlawful for any person owning, managing or otherwise controlling any place of business to cause or to permit any agent, employee or other person under his control or supervision to participate in conduct prohibited in subsection (a) of this section. (Code 1965, §8.09)

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

Sec. 10-22. Adoption of state law regarding obscene materials.

W.S.A. §948.11 regarding obscene materials, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code. (Code 1965, §8.03(5))

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

Sec. 10-23. Adoption of state law regarding damage to property.

W.S.A. §943.01(1) regarding damage to property, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code. (Code 1965, §8.04(1))

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

Sec. 10-24. Dumping, leveling of used building and fill material.

No person shall dump or leave used building or fill material on any lot within the City which cannot be leveled, and all such material which can be leveled shall be leveled. The owner of any such lot shall be responsible for removing or leveling such material.

(Code 1965, §8.04(3))

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

Sec. 10-25. Operation of snowmobiles, motor-driven cycles, and motor-driven scooters.

(a) No person shall operate a snowmobile on any school grounds or on any public property of any kind or nature belonging to the City or its departments, or on the property of any private person without the consent of the owner.

(b) No person shall operate motor-driven cycles or motor-driven scooters such as minibikes, mopeds, go-carts, motor-driven scooters, motor-driven in-line skates or similar type vehicles on school grounds or on any public property belonging to the City or on the property of any private person without the consent of the owner.

(Code 1965, §8.04(4); Ord 91-01, §1, 5-7-01)

Cross reference(s) – Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; streets, sidewalks and other public places, ch. 16; traffic and vehicles, ch. 19.

Sec. 10-26. Adoption of state law regarding trespass to land.

W.S.A. §943.13 regarding trespass to land, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.04(5))

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

Sec. 10-27. Adoption of state law regarding trespass to dwellings.

(a) W.S.A. §943.14 regarding trespass to dwellings, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(b) W.S.A. §943.15 regarding entry unto a construction site or into a lot, building, dwelling or room, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.04(6); Ord 40-92, §1, 4-15-92)

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

Sec. 10-28. Adoption of state law regarding theft.

(a) W.S.A. §943.20 regarding theft, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(b) W.S.A. §943.50 regarding theft, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.06(1), (2); Ord 40-92, §2, 4-15-92)

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

Sec. 10-29. Defraud of merchant in return of merchandise.

Whoever returns merchandise to a merchant for the purpose of claiming a cash refund or credit by intentionally deceiving the merchant with a representation that such merchandise was purchased by such person from such merchant at the price claimed where such merchandise was, in fact, not purchased by such person or was not purchased from such merchant or was purchased at a price lower than the price claimed shall be guilty of a violation of this chapter. The intentional giving of a false name or address to a merchant during the return of merchandise is evidence of intent to defraud a merchant.

(Code 1965, §8.06(3))

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

Sec. 10-30. Adoption of state law regarding theft of services.

(a) W.S.A. §943.45 through §943.47 regarding theft of certain services, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(b) W.S.A. §943.21 regarding fraud on hotel or restaurant keeper, taxicab operator or gas station, exclusive of any penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.07; Ord 137-91, §1, 12-4-91; Ord 88-96, §1, 9-18-96, Ord 47-04, §1, 4-13-04)

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

Sec. 10-31. Adoption of state law regarding theft of library material.

W.S.A. §943.61 regarding theft of library material, exclusive of any penalty, is hereby adopted by reference and made an offense punishable as a violation of this Code.
(Code 1965, §8.10)

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

Sec. 10-32. Adoption of state law regarding possession of marijuana.

The provisions of W.S.A. Sec. 66.0107(1)(bm) as amended from time to time, regarding the possession of twenty-five (25) grams or less of marijuana as defined in W.S.A. Sec. 961.01(14), and subject to the exceptions in W.S.A. Sec. 961.41(3g)(intro), shall be punishable as a violation of this Code, except that any person charged with possession of more than twenty-five (25) grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of marijuana in the State of Wisconsin, shall not be charged under the paragraph.

(Code 1965, §8.08)

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

Sec. 10-33. Possession, sale of isobutyl nitrate.

No person shall manufacture, possess, use, dispense, sell or hold for sale any isobutyl nitrate, or any compound or mixture or preparation containing significant amounts of isobutyl nitrate.

(Code 1965, §8.11)

Sec. 10-34. Adoption of state law regarding controlled substances.

(a) W.S.A. Sec. 961.573, as amended from time to time, regarding possession of drug paraphernalia, exclusive of penalties, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(b) W.S.A. Sec. 961.574, as amended from time to time regarding manufacture or delivery of drug paraphernalia, exclusive of any penalties, is hereby adopted by reference and made an offense punishable as a violation of this Code.

(c) W.S.A. Sec. 961.575, as amended from time to time regarding delivery of drug paraphernalia to a minor, exclusive of any penalties, is hereby adopted by reference and made an offense punishable as a violation of this Code. (Code 1965, §22.11; Ord 162-10, §1, 11-23-10)

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

Sec. 10-35. Harboring minors.

No person shall, unless duly licensed under the Wisconsin Statutes or without having first obtained the permission of the parents or legal guardian of any minor or without first notifying the City Police Department of the existence of a minor described in (1) below on premises owned or operated by or under the control of such person:

(1) By any means conceal or shelter or assist in the concealing or sheltering of any minor under the age of eighteen (18) years while the minor is under the legal custody of a parent or legal guardian and while the minor is on report with any law enforcement as a “missing person”, a “runaway” or a “wanted” person; or

(2) Supply false information to or obstruct any police officer in the performance of his duty to locate or take into custody any minor described in this Section.

(Ord 30-90, §1, 4-4-90)

Sec. 10-36. Loitering by minors.

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

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

Minor means any person less than eighteen (18) years of age.

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

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

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

(Ord 35-92, §1, 3-18-92)

Sec. 10-37. Possession or purchase of cigarettes, nicotine, vapor, 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, nicotine, 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. It shall be unlawful for anyone under the age in which that person can possess or purchase cigarettes, nicotine, or tobacco products to possess or purchase vapor products.

(b) The provisions of W.S.A. §134.66, regarding the sale or gift of cigarettes, nicotine, 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.

(c) **Definitions.** As used in this Section:

Vapor product means any noncombustible product or device, regardless of whether it contains nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce a vapor that is intended to be inhaled by the person using the product. “Vapor product” includes an electronic cigarette, electronic cigar, electronic

cigarillo, electronic pipe, or similar product or device; and any cartridge or other container of a solution or other substance, regardless of whether it contains nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

(d) **Penalty.** Any person who violates this section shall be penalized pursuant to section 1-18(b). (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; Ord 3-20, §1, 1-14-2020)

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.

(a) **Purpose.** It is the purpose and intent of this Section to have in place a mechanism to assist with addressing truancy concerns raised by Appleton Area School District (AASD). Enforcement of this ordinance contemplates that AASD has offered supports and tools beyond its statutorily required compulsory attendance duties. The effectiveness and administration of this Section will be evaluated periodically by the Common Council, or a subcommittee thereof, by taking into consideration expectations, data and related information as more particularly set forth in Resolution #3-R-25 as adopted on October 1, 2025.

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(b) No person under 18 years of age shall be a “habitual truant.”

(c) **Dispositions.** Any person who violates this section may be subject to the following court-ordered dispositions, to the exclusion of other statutory dispositions, pursuant to W.S.A. §118.163(2):

- (1) An order for the person to participate in counseling or a supervised work program or other community service work as described in §938.34 (5g). The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in good faith has immunity from any civil liability in excess of \$25,000 for any act or omission by or impacting on that person. (W.S.A. §118.163(2)(b))
- (2) An order for the person to attend an educational program as described in §938.34 (7d). (W.S.A. §118.163(2)(d))
- (3) An order for the department of workforce development to revoke, under §103.72, a permit under s. 103.70 authorizing the employment of the person. (W.S.A. §118.163(2)(e))
- (4) An order for the person to attend school. (W.S.A. §118.163(2)(g))
- (5) A forfeiture of not more than \$500 plus costs, subject to §938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both. (W.S.A. §118.163(2)(h))
- (6) An order placing the person under formal or informal supervision, as described in §938.34 (2), for up to one year. (W.S.A. §118.163(2)(j))

(d) No proceedings may be brought against a person under this section unless the requirements of W.S.A. §118.16(5), and §118.16(5m) are complied with by the school attendance officer prior to the issuance of a citation.

(e) **Definitions.** The definitions of terms in W.S.A. §118.163(1) are hereby adopted and incorporated into this section by reference.

(f) **Effective dates.** This section shall become effective November 1, 2025 and remain effective until and inclusive of June 30, 2026 at which time it will automatically be repealed unless previously amended by the Common Council.

(Ord 1-11, §1, 1-11-11; Ord 86-19, §1, 9-10-19; Ord 117-25, §1, 10-15-25)

Editor’s Note: Truancy and habitual truancy was repealed by the Common Council at the regular meeting of September 4, 2019. The repealing ordinance was published September 9, 2019 and became effective September 10, 2019.

Editor’s Note: Truancy was created by Ord 117-25 adopted by the Common Council on October 15, 2025, published on October 21, 2025 and becoming effective on November 1, 2025.

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.

- (3) **Weapon** means a handgun, an electronic weapon as defined as Wis. Stats. §941.295 (1c)(a), a knife, or a billy club.

(b) In addition to the provisions of Wis. Stats. §175.60 enumerating places where the carrying of a weapon or a firearm is prohibited, including exceptions thereto, it shall be unlawful for any person other than a law enforcement officer to enter any posted building, or portion of a posted building owned, occupied or controlled by the City of Appleton while carrying a firearm or concealed weapon.

(c) Signs meeting the requirements of Wis. Stats. §943.13(2)(bm)1 shall be posted in prominent places near all entrances of such buildings regarding such restriction.

(d) Any person who enters or remains in any aforementioned City building contrary to such signage shall be considered a trespasser subject to penalty as proscribed under §10-26 of this code.
(Ord 221-11, §1, 11-1-11; Ord 39-16, §1, 3-22-16)

Sec. 10-49. Adoption of state law regarding possession of a firearm in a school zone.

W.S.A. §948.605 regarding possession of a firearm in a school zone, exclusive of the penalty, is hereby adopted by reference and made an offense punishable as a violation of this code.
(Ord 7-14, §1, 3-11-14)

Sec. 10-50. Massage therapy and bodywork therapy.

(a) For purposes of this section, the definitions set forth in W.S.A. §460.01 are hereby adopted and incorporated as part of this section.

(b) No person may violate the prohibitions under W.S.A. §460.02 unless the person is licensed as required under W.S.A. Chapter 460 as required under W.S.A. §460.02.

(c) No person may employ or contract for the services of an individual to provide massage therapy or bodywork therapy who is required to be licensed under W.S.A. §460.02 unless the individual is licensed under W.S.A. Chapter 460.

(d) **Penalties.** Any person who shall violate any provision of this section may be subject to a forfeiture of no more than one hundred dollars (\$100) for the first offense and no more than two hundred fifty dollars (\$250) for the second and subsequent offenses. Each day that a violation occurs shall be considered a separate offense.
(Ord 11-20, §1, 2-11-2020)

(Ord 123-03, §1, 7-8-03)

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

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

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

(b) Exemption to the enforcement of this chapter are dogs specially trained to lead blind or deaf persons to provide support for mobility-impaired persons, or animals to assist with emergency personnel.

(c) Animal shall have the same meaning as set forth in Section 3-1.
(Ord 30-03, §1, 2-11-03)

Sec. 10-48. Firearms restricted in certain City buildings.

(a) **Definitions.**

- (1) **Firearm** means a weapon that acts by force of gunpowder.
- (2) **Law enforcement officer** means a person who is employed by a law enforcement agency as defined in Wisconsin Statutes Section 175.49(1)(f) for the purpose of engaging in, or supervising others engaging in, the prevention, detection, investigation or prosecution of, or the incarceration of any person for, any violation of law and who has statutory powers of arrest.

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Chapter 12

Nuisances

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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.

(19) All leaves and other yard waste debris blocking the safe passage of any sidewalk

(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; Ord 108-19, §1, 12-10-19)

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, including issuing citations 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.

(Ord 109-25, §1, 08-20-25)

(b) Summary abatement.

(1) **Order of abatement.** If the inspecting officer determines that a public nuisance exists

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

(2) **Abatement by City.** Whenever the owner or occupant shall refuse or neglect to remove or abate the condition described in the order, the inspecting officer shall, in his discretion, enter upon the premises and cause the nuisance to be removed or abated and the City shall recover the expenses incurred thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance.

(c) Nonsummary abatement by City.

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

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

thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance.

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

(d) **Authority to assess costs.** The cost of the abatement or removal of a nuisance under this section shall be collected from the owner, occupant or person causing, permitting or maintaining the nuisance and, if notice to abate the nuisance, if applicable, has been given to the owner, such cost shall be assessed against the real estate as a special charge.

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

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

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

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

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

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

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

No person shall leave or permit to remain outside of

any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his control, in a place accessible to children, any abandoned, unattended or discharged icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may be not released from the inside, without first removing the door or lid, snap lock or other locking device from the icebox, refrigerator or container.

(Code 1965, §8.01(7))

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

Sec. 12-36. Outside storage of firewood.

No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of fourteen (14) days from the date of its delivery. Firewood shall be neatly stacked and may not be stacked closer than one (1) foot to any lot line and not higher than five (5) feet from grade, except adjacent to a fence, where firewood can be stacked against the fence, where firewood can be stacked against the fence as high as the fence. All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises. Not more than ten percent (10%) of the side yards and rear yard may be used for storage of firewood at any one time. The definitions of the City Zoning Code apply to this section, except that the word “fence” shall not include a hedge or other vegetation.

(Code 1965, §22.12)

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

Sec. 12-37. Composting.

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

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

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

(c) **Definitions.**

- (1) **Composting** shall mean a controlled biological reduction of organic wastes to humus.
- (2) **Compost barrel or barrel** shall mean a barrel made of metal or plastic, fifty-five (55) gallons or larger, with a minimum of six (6) rows to a maximum of nine (9) rows of one-half (½) inch holes drilled into the barrel for ventilation, with a block or stone pedestal base for water release.
- (3) **Compost bin or bin** shall mean a bin that is enclosed and free standing, constructed of rot-resistant wood such as cedar, arsenic free treated wood, plastic lumber, metal post and woven wire or hardware cloth. Bins shall be fastened to the ground to form stability. A bin shall be no at minimum three (3) feet tall and at maximum five (5) feet tall, with a minimum width of three (3) feet and a maximum width of five (5) feet. Yard waste shall mean leaves, grass clippings, garden debris and brush.
- (4) **Compost pit or pit** shall mean a pit in the ground that is a minimum of two (2) feet deep and a maximum of four (4) feet deep and covered at all times with a minimum of one (1) inch to a maximum of three (3) inches of soil.
- (5) **Compost trench or trench** shall mean a trench in the ground that is at minimum eighteen (18) inches deep and covered at all times with a minimum of one (1) inch to a maximum of three (3) inches of soil.
- (6) **Food scraps** shall mean raw fruits and vegetables and other food remains, such as, but not limited to, apples (peels and cores), cabbage, carrots, celery, coffee (grounds and filters), clean egg shells, grapefruit, lettuce, onion peels, orange peels, pears, pineapple, melon rinds, potatoes, pumpkin shells, squash, tea leaves, tomatoes, turnip leaves, etc.
- (7) **Yard waste** shall mean leaves, grass clippings, garden vegetation and brush.

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

- (1) Yard waste composting: Yard waste shall be composted in bins. Yard waste must be

turned every one (1) to two (2) weeks. Yard waste bins may also contain food scrap. Any yard waste bin that is also used to compost food scraps must have a lid with a latching assembly system.

- (2) Food scrap composting: Food scraps may be composted in bins, pits, trenches or barrels. Food scraps must be turned or tilled with soil every two (2) to three (3). Barrels and bins must have a lid with a latching assembly system.
- (3) Should there be signs or evidence of rodents in or near a compost barrel, bin, pit, or trench, the Health Department must be notified and shall be authorized proceed under Sections 7-67 and 7-68.
- (4) Should there be any unpleasant odor from the compost bin, barrel, pit or trench, steps must be taken immediately to abate the odor.

(e) **Location.**

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

(f) **Ingredients.**

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

(2) Permitted ingredients in a compost bins, pits, trenches, and barrels shall include:

- a. Yard waste;
- b. Food Scraps;
- c. Commercial compost additives.

(g) ***Owner Responsibility.*** Every owner or operator shall be responsible for maintaining all property under his or her control in accordance with the requirements of this section. Compost material generated shall be for private use only; to be used on the same parcel it was generated. Compost may not be sold.

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

(Ord 66-15, §1, 9-8-15)

Secs. 12-38 – 12-55. Reserved.

ARTICLE III. WEEDS AND WILD GROWTH*

Sec. 12-56. Definition.

For purposes of this article, noxious weeds shall mean the weeds defined in W.S.A. §66.0407, which is hereby adopted and made a part of this article, and shall also include common ragweed (*Ambrosia 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 City Clerk's Office. (Ord 17-23, §1, 5-23-23)

(c) The Weed Commissioner shall destroy or cause to be destroyed noxious weeds; and, is further empowered to enter upon public and private lands to cut or remove the accumulation or growth of weeds, grass, brush or other rank or offensive vegetation as follows:

(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.

(Ord 99-24, §1, 8-7-24)

(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; Ord 26-22, §1, 4-6-22; Ord 99-24, §1, 8-7-24)

***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 Central Business District (CBD).

Conditional variance means a regulatory exemption granted that permits elevated noise levels beyond standard noise control limits for industrial, construction, or similar applications.

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.

Daytime 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) microneutons 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.

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

Motor vehicle has the meaning given in Wisconsin Statutes §340.01(35) (2023-24) as amended from time to time.

Muffler has the meaning given in Wisconsin Statutes §347.39(3) (2023-24) as amended from time to time.

Nighttime 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.

Special Variance means a regulatory exemption granted that permits amplified sound or elevated noise levels beyond standard noise control limits for entertainment events and private gatherings.

(Code 1965, §22.09(2); Ord 69-07, §1, 3-27-07; Ord 27-25, §1, 03-05-25)

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, including vehicular noise. 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.

(Ord 27-25, §1, 3-5-25)

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 §1-18. 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); Ord 27-25, §1, 03-05-25)

Sec. 12-79. Noise measurement methods.

(a) Measurement shall be made at a point approximately but not less than 25 feet beyond the property line of the property on which such noise is generated or perceived. 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 using either subjective or objective measurement, or a combination of subject and objective measurement. Subjective measurement will be determined by personnel that are trained to operate hardware and software for identifying noise levels. Objective measurement should be made 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 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 **Table I**.

(Ord 27-25, §1, 03-05-25)

Sec. 12-80. Disturbing noise generally and prohibited acts.

(a) 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.

(b) No person shall operate or cause to be operated on private or public property any source of sound in such a manner as to create a sound level which exceeds the limits set in Table I.

(c) No person shall operate, use, or allow the operation or use of any device – including but not limited

to radios, televisions, music players, musical instruments, or electronic sound systems – in a manner that creates a noise disturbance.

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

(e) 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.

(f) 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.

(g) Unlawful muffler noise. The provisions of Wisconsin Statutes §347.39 (2023-24), and as amended from time to time, are hereby adopted by reference and made a part of this section. Violations of this subsection can also be enforced as a violation of § 19-1, the adopted state traffic laws.

(h) No operator shall accelerate a motor vehicle in such a manner as to create unnecessary noise, including but not limited to loud or excessive engine revving, tire squealing caused by friction with the roadway surface, or causing tires to throw stones or gravel while accelerating.

(i) 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.

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

- (1) The daytime criteria, as set forth in Table I, shall not apply to construction sites, demolition sites, public utilities, and public works projects and operations during daytime hours; 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 utilize strategies 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, public works operations, and personal generators operated in residential areas during power loss.
- (3) Essential operations and noises required by law enforcement relating to the public health, safety and welfare, including, but not limited to, law enforcement, firefighting and rescue and sanitation activities.
- (4) Youth sports activities and other sanctioned youth events conducted by recognized community or school organizations. These activities shall be permitted to generate noise incidental to their normal operations and events, provided that such noise is reasonable in duration and is limited to the scheduled event times.

TABLE I

Maximum Permissible Sound Pressure Level

	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>
Daytime	60 dB(A)	70 dB(A)	75 dB(A)
Nighttime	50 dB(A)	55 dB(A)	70 dB(A)

(Code 1965, §8.02(3); Code 1965 §8.03(3)(a); §22-09(3), (5), and (7); Ord 139-94, §1, 11-16-94; Ord 171-01, §1, 10-8-01; Ord 27-25, §1, 03-05-25)

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

Secs. 12-81 – 12-82. Reserved.

Sec. 12-83. Variances.**(a) *Special Variance Permits.***

- (1) 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.
- (2) ***Application.*** An application for a variance permits under this subsection must be submitted in writing to the Health Officer or their designee. The application shall include the specific grounds for requesting the variance and the proposed timeline for the activity. The Health Officer shall provide public notice of the receipt of a variance permit application within a reasonable period. Application fees will be established and maintained on file at the Health Department.
- (3) ***Procedures.*** Any person seeking a special variance permit pursuant to this section shall file an application with the Health Officer, seven (7) days prior to commencement of the event or activity for which the variance permit is requested. The Health Officer, 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, including contact information.

- (4) ***Issuance.*** Upon final approval by the Health Officer, 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, including remittance of applicable fees.
- (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.
- (6) ***Appeals.*** Any applicant or other person aggrieved by the decision of the Health Officer or designee may seek an appeal to the Board of Health. Requests for appeal shall be made in writing to the Health Officer, to be submitted to the Board of Health. 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.

(b) *Conditional Variances.*

- (1) It may not be technically or economically feasible for certain commercial, industrial, or construction sources of sound to comply with the standards set forth herein. Therefore, the Board of Health may grant variances from this subsection 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. The application shall include the specific grounds for requesting the variance and the proposed timeline for the activity. An application for a variance permit shall be considered timely made if filed within thirty (30) days before the date for which the variance is sought. 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; Ord 27-25, §1, 03-05-25)

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 federal or state law. 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; Ord 27-25, §1, 03-05-25)

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

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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 false alarm No charge
- (2) Second false alarm\$50.00
- (3) Third, fourth and fifth false alarms
.....\$100.00
- (4) Sixth, seventh and eighth false alarms
.....\$200.00
- (5) Ninth, tenth, and eleventh false alarms
.....\$300.00
- (6) 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 premises 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 premises 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; Ord 16-24, §1, 4-3-24)

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

ARTICLE VII. CHRONIC NUISANCE PREMISES.

DIVISION 1. GENERALLY

Sec. 12-140. Findings.

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

Sec. 12-141. Definitions.

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

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

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

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

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

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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 facilitation of 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 Community Development Department Inspections Division employees or designee thereof.
(Ord 18-23, §1, 5-23-23)

City Inspections Department or Inspections means the Inspections Divisions of the Department of Community Development, Health and Fire Departments.
(Ord 29-24, §1, 5-1-24)

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.

APPLETON MUNICIPAL CODE

- (16) Prostitution as prohibited by §10-20, Code or s. 944.30, Wis. Stats.
- (17) Soliciting prostitutes as prohibited by s. 944.32, Wis. Stats.
- (18) Pandering as prohibited by §10-21, Code or s. 944.33, Wis. Stats.
- (19) Possessing an open container which contains alcohol beverages or consuming alcohol beverages upon any public street as prohibited by §10-14, Code.
- (20) Selling, offering for sale or giving away of any intoxicating liquors or fermented malt beverages without a license as provided in s. 125.04(1), Wis. Stats.
- (21) Underage person posses or consume alcoholic beverages as provided in s. 125.07(4)(b), Wis. Stats., 9-51, Code.
- (22) Adult providing or selling alcohol to underage person as provided in s. 125.07(1)(a)1., 9-51, Code.
- (23) Possession, manufacture, distribution or delivery of a controlled substance or related offenses as defined in ch. 961, Wis. Stats.
- (24) Maintaining a drug dwelling as defined in s. 961.42, Wis. Stats.
- (25) Illegal gambling as defined in s. 945.02, Wis. Stats.
- (26) Owning, keeping or harboring a dangerous animal or prohibited dangerous animal contrary to Chapter 3, Code.
- (27) Any other nuisances set forth in Chapter 12, Article II, Code.
- (28) Failing to maintain a property resulting in weeds, wild growth and general yard neglect as set forth in Chapter 12, Article III, Code.
- (29) Violations of the Fire Prevention and Protection Code, set forth in Chapter 6, Code.
- (30) Violations of the Minimum Housing Code, as prohibited by Chapter 4, Code.

Person means any natural person, agent, association, firm, partnership, corporation or other entity capable of

owning, occupying or using property in the city of Appleton.

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

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

Premises means a commercial business, public or private clubhouse, a place of abode, a residence, a house or multiple dwelling unit for one (1) or more persons, including lodging houses, hotels, motels and tourist rooming houses, and associated common areas, yards and parking lots. In the case of multiple dwelling units.

“Premises”, as used in this section, may consist of any single unit providing complete, independent living facilities for one (1) or more persons, including provisions for living, sleeping, eating, cooking and sanitation.
(Ord 15-22, §1, 2-16-22)

Secs. 12-142 – 12-144. Reserved.

DIVISION 2. PROCEDURE**Sec. 12-145. Procedure.**

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

- (1) Street address, parcel number or a legal description sufficient to identify the premises.
- (2) A concise statement, including a description of the relevant activities supporting the determination that the premises is a chronic nuisance premises.
- (3) A statement that the owner shall immediately notify the authorized official of any change in address to ensure receipt of future notices.
- (4) A statement that the actual costs of future enforcement may be assessed as a special charge against the premises.
- (5) A statement that the owner shall, within ten (10) days of the date the CNP Notice is mailed, contact the authorized official and schedule a meeting with that official to develop a written action plan to abate the nuisance, or notify the official in writing of the intention to appeal.
- (6) A statement that the premises owner shall at all times comply with the fair housing requirements contained in Ch. 8, Art. 2 of the Municipal Code when considering any action against a tenant based upon a CNP Notice.
- (7) A statement that the premises owner, in addition to actual abatement costs, may be

subject to a forfeiture action with a penalty of not less than two hundred dollars (\$200) nor more than five thousand dollars (\$5,000) for each day a chronic nuisance is allowed to continue.

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

available to abate the nuisance activity.

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

- (4) Any premises owner who has been notified by the authorized official that their non-owner occupied premises is a chronic nuisance premises 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.

(The next page is 875.)

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)

Chapter 13

Parks and Recreation

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Editor’s Note: This chapter was repealed and recreated pursuant to Ordinance 5-14, adopted February 19, 2014, published February 24, 2014 and became effective February 25, 2014.

Editor’s Note: This chapter was repealed and recreated pursuant to Ordinance 77-16, adopted October 19, 2016, published October 24, 2016 and became effective October 25, 2016.

Editor’s Note: All references to Parks, Recreation and Facilities Management were replaced by Parks and Recreation Department pursuant to Ordinance 22-24, adopted May 1, 2024, Published May 6, 2024 and became effective May 7, 2024. All references were updated in the Appleton Municipal Code pursuant to this ordinance.

ARTICLE I. IN GENERAL

Sec. 13-1. Definitions and terms.

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

(a) **Committee** shall mean the City of Appleton Parks and Recreation Committee or the Utilities Committee, subject to each committee's respective jurisdictions.

(b) **Director** shall mean either the Director of the Parks and Recreation Department or the Director of the Public Works Department, or their respective designee, as their respective jurisdictions apply to the subject matter of this chapter.

(c) **Excessive, loud or unusual noises** shall mean use of a radio or other similar amplification device so that sound emitting from said radio or amplification device is audible under normal conditions from a distance of seventy-five (75) or more feet.

(d) **Park** shall mean the grounds, trails, buildings, waters and any other property under the jurisdiction of the Parks and Recreation Committee, as well as stormwater management facilities, which are under the jurisdiction of the Utilities Committee.

(e) **Permit** shall mean written authorization from the Director for specific uses of parks and Special Use Areas as required.

(f) **Special Use Areas** shall include properties and facilities, or portions thereof, under the jurisdiction of the Parks and Recreation Department or the Department of Public Works that are regulated by contracts or agreements approved by the committee of jurisdiction. Special Use Areas may be exempt from certain regulations set forth in this chapter subject to the terms of the contract or agreement and uses permitted therein as approved by the committee of jurisdiction. Special Use Areas include, but may not be limited to:

- (1) Appleton Family Ice Center-Appleton Veterans Memorial Park.
- (2) Rowing Club-Telulah Park.
- (3) USA Youth, Inc.-USA Youth Sports Complex.
- (4) Appleton Yacht Club-Lutz Park.
- (5) Privately leased areas of Houdini Plaza and Vulcan Heritage Park.

(g) **Stormwater management facilities** shall mean the areas in the City or owned by the City used to carry, manage and/or store stormwater, and includes stormwater detention ponds, drainage corridors and the adjacent landscaping.

(h) **Trails** shall mean paved routes, and five (5) feet on either side of the paved routes, that are designated as trails by the Parks and Recreation Department and designed and intended specifically for non-motorized public travel, except as provided for in Sec. 13-10, through city-owned and/or managed areas, through property that is designated and operated as a public park for general recreational use, and/or through private property that is maintained by the property owner by agreement with the City.

(Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-25-16; Ord 102-25, §1, 08-20-25)

Sec. 13-2. Committee rule making authority.

The Committee is authorized to adopt additional or revised rules for the conducting of activities within the parks and Special Use Areas. Any violation of the rules adopted by the Committee shall be incorporated herein and considered a violation of this chapter.

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

Sec. 13-3. Application to City of Appleton employees.

The prohibitions and limitations contained in this chapter shall not apply to City employees or agents when performed as part of their duties.

(Ord 77-16, §1, 10-25-16)

Sec. 13-4. Activities prohibited without a permit.

The following activities are prohibited in parks and in Special Use Areas without a permit. The denial of a permit may be appealed to the committee of jurisdiction. Other permits or permissions may also be required.

(a) Exclusive use or use beyond casual play.

(b) Public meetings, assemblies, entertainment, tournaments or speeches.

(c) Selling or offering for sale any tangible or intangible item, or offering services that require payment for participation, or soliciting for any trade, occupation, business or profession, except at stormwater management facilities where such activities are strictly prohibited.

(d) Taking off or landing of aircraft, including, but not limited to, hot air balloons, helicopters and the like, or dropping parachutists or any other object from the sky.

(e) Camping overnight, except at stormwater management facilities where the activity is strictly prohibited.

(f) Use during times when the area is otherwise closed to the public.

(g) Use of any sound amplification device, sound truck, loudspeaker or other device that produces excessive, loud or unusual noises.

(h) Launching of any watercraft or motorized vehicle, or parking in any area designated for parking, in any area where the Committee has established a fee for such act.

(i) Fireworks displays, conditioned upon prior issuance of a permit pursuant to Sec. 10-5.

(j) Hunting, feeding, trapping or disturbing birds or any wildlife, training animals for hunting purposes, releasing any animals or fish. Proper licensing or approval by the Department of Natural Resources may also be required.

(k) Possession of any glass container.

(l) Removing any object of archeological interest including any man-made article or implement originating from earlier cultures.

(m) Operating any solid or liquid fuel powered model, toy, or device including, but not limited to, powered devices operated by remote control.

(n) Bring in any animal not otherwise permitted under this chapter.

(o) Fires, except:

(1) Cooking fires contained to City provided grills or commercially produced barbecue grills or kettles, and

(2) At stormwater management facilities where fires are strictly prohibited.

(p) Hanging, suspending or placing any object on a tree including rope, cord, webbing or other material, or engaging in an activity that requires hanging or suspending an object or a person from a tree, except at stormwater management facilities where such activities are strictly prohibited.

(q) Skateboarding, except:

(1) At Telulah Park skateboard park and on trails, where no permit is required, and

(2) At stormwater management facilities where the activity is strictly prohibited.

(r) Bathing or swimming, including in fountains, except:

(1) In City-operated swimming pools or other areas posted for such use, where no permit is required, and

(2) At stormwater management facilities where the activities are strictly prohibited.

(s) Planting any turf, trees, shrubs, flowers or other vegetation, and digging, mowing, trimming, removing or otherwise altering or destroying any turf, trees, shrubs, flowers or other vegetation.

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

Sec 13-5. Prohibited items and uses.

In addition to otherwise illegal activities, the following shall be prohibited within the boundaries of any park and Special Use Area:

(a) Unless otherwise permitted by law, possession of any firearm, air gun, spring gun and the like or weapon of any kind except for archery as part of an authorized recreation program or at the archery range in Appleton Memorial Park.

(b) Operation of snowmobiles.

(c) Washing vehicles or pets.

(d) Removal of or harming any wildlife.

(e) Defacing, destroying or vandalizing any structure, sign, equipment or other City property.

(f) Operating or parking any motorized vehicle or device during closed hours.

(g) Littering.

(h) Bringing in trash to dispose of and disposing of trash not relating to normal use.

(i) Being abusive, boisterous or disorderly.

(j) Engaging in an activity for which a permit is required without first obtaining a permit.

(k) Failure to obtain and visibly display in or on the accompanying vehicle from which a watercraft is launched, in such locations on or in the vehicle as are

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directed by the Parks and Recreation Committee, a required permit for the launching of any watercraft.

(l) Affixing or setting upon any sign, notice, solicitation, literature, exhibit, display, flyer or pamphlet of whatever nature or to any tree, shrub, post, barrel, building or any other plant or structure.

- (1) This subsection shall not be construed to prohibit distribution of literature by means of direct personal contact between distributor and recipient to the extent otherwise permitted by law, nor shall it prohibit the posting of signs and notices, in accordance with park rules, in connection with any permitted activity which is taking place in the location in which the sign or notice is erected or posted.

(m) Hitting any golf ball except as permitted at Reid Golf Course.

(n) Dogs, unless the dog is on a sidewalk, trail or road and is restrained by a chain, rope or other type of leash no more than eight (8) feet in length and an individual competent to govern and physically control and restrain the dog is in physical control of the leash at all times. The dog shall display tags verifying it is currently licensed and vaccinated against rabies. Any waste left by the dog shall be immediately removed for sanitary disposal by the individual in control of the animal.

- (1) A violation of this subsection or violation of any other provision of this Code regarding the keeping, maintaining, controlling and the like of an animal occurring within a city park may be subject to a forfeiture that is twice the otherwise scheduled amount.
- (2) Dogs at Special Events. Dogs shall be prohibited during special events in parks, including sidewalks, trails and roads, unless preapproved by the event organizer and the City.

(o) Using any public park tennis court for any activity or purpose other than playing tennis or pickleball. Prohibited activities include, but are not limited to, skateboarding, rollerblading, bicycling, playing soccer, playing volleyball, gathering, or any other recreational or non-recreational use unrelated to tennis or pickleball. (Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-25-16; Ord 40-17, §1, 6-13-17; Ord 103-25, §1, 08-20-25)

Sec. 13-6. Park hours.

(a) Unless otherwise specified, parks, with the

exception of trails, and Special Use Areas shall be open to the public from 5:00 a.m. to 11:00 p.m.

(b) Unless otherwise specified, trails shall be open 24 hours a day, 7 days a week.

(c) Persons launching or transporting a watercraft from park property may do so only within the park hours.

(d) The Director shall have full authority to open and close any park, Special Use Area, or any part thereof, because of season, condition, construction, or when in the interest of public safety if it is deemed necessary by the Director.

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

Sec. 13-7. Fees and charges.

(a) The Committee of jurisdiction shall have the authority to establish such fees as are deemed necessary for use of any park or Special Use Area or any portion thereof, and for the reservation of the park or Special Use Area or any portion thereof.

(b) Fee schedules shall be available upon request from the Parks and Recreation Department.

(c) It shall be unlawful to use an area of a park or Special Use Area where a fee is required without first paying the fee. (Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-25-16)

Sec. 13-8. Possession of alcoholic beverages.

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

(b) The possession and consumption of fermented malt beverages and wine is prohibited within 20' of any pavilion or playground within a park.

(c) 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 Veterans Memorial Park while organized league or tournament play is in progress.

(2) Time limitations in this section shall be extended to 8:00 a.m. at Reid Golf Course.

(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 may be subject to a forfeiture pursuant to Sec. 1-16 and Sec. 13-11 et. seq. (Code 1965, 13-03(3); Ord 83-98, §1, 8-20-98; Ord 52-02, §1, 4-23-02; Ord 121-07, §1, 8-7-07 (renumbered from 13-78); Ord 154-10, §1, 10-26-10; Ord 5-14, §1, 2-25-14, Ord 11-15, §1, 3-10-15; Ord 99-15, §1, 11-24-15, Ord 77-16, §1, 10-25-16 (renumbered from Sec.13-7); Ord 104-25, §1, 08-20-25)

Sec. 13-9. Fishing: catch and release.

Fishing in Appleton Memorial Park Pond and stormwater detention ponds is permitted but subject to certain limitations.

(a) Appleton Memorial Park Pond. Fishing is permitted during regular park hours, except when such waters are being used for City-sponsored activities, and is subject to Wisconsin Department of Natural Resources regulations for urban fishing waters. The pond has a year round season with no length limits, except only juveniles 15 years of age or younger and disabled anglers pursuant to Wisconsin Stat. s. 29.193(3)(a), (b) or (c), may fish from the second Saturday in March to, but not including, the last Saturday in April. There is a bag limit of three (3) trout, one (1) gamefish (largemouth bass, smallmouth bass, walleye, sauger or northern pike), and ten (10) panfish (bluegill, crappie, pumpkinseed, yellow perch and bullhead).

(b) Stormwater Detention Ponds. These ponds are considered "catch and release" ponds; therefore, all caught fish must be immediately returned to the pond. Regular fishing line and barb-free hooks must be used at all times. Fishing is permitted in these ponds from 5:00 a.m. to 11:00 p.m., except when such waters are being used for City-sponsored activities, subject to Wisconsin Department of Natural Resources regulations and licensing requirements. (Ord 83-02, §1, 6-1-02; Ord 121-07, §1, 8-7-07 (renumbered from Sec. 13-88); Ord 41-12, §1, 5-16-12; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-28-16 (renumbered from 13-8))

Sec. 13-10. General regulations.

(a) Motor-driven vehicles and devices are restricted to designated roadways and parking areas in parks and Special Use Areas and are prohibited on trails and any other area, except for motor-driven vehicles and devices that are used by a physically disabled person as defined under s. 346.503(1), Wis. Stat., and in compliance with Title II and III of the Americans with Disabilities Act, or with prior written permission from the Director.

(b) The speed of motor-driven vehicles and devices shall be limited to a maximum of fifteen (15) miles per

hour unless otherwise posted. Operating speeds shall be speeds that are reasonable, safe and prudent so as not to interfere with the safety of park users.

(c) It shall be unlawful to park, stop or leave standing any motor-driven vehicles or devices within any park between the hours of 11:00 p.m. and 5:00 a.m., unless otherwise posted and unless such motor vehicle is registered for overnight parking with the Director.

(d) Except for a motor vehicle used by a physically disabled person as defined under s. 346.503(1), Wis. Stats., no persons may park, stop or leave standing any vehicle, whether attended or unattended and whether temporarily or otherwise, upon any portion of any park or Special Use Area reserved by official traffic signs indication the restriction, for vehicles displaying special registration plates under s. 341.14(10), (1a), (1e), (1m), or (1r), Wis. Stat., or a special identification card issued under s. 343.51, Wis. Stats., or vehicles registered in another jurisdiction and displaying a registration plate, card or emblem issued by the other jurisdiction which designates the vehicle as a vehicle used by a physically disabled person.

(e) No person shall interfere in any manner with any City employee or agent in the performance of his or her assigned duties. (Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-25-16)

Sec. 13-11. Penalty.

A person who violates any section of this chapter may be penalized pursuant to Sec. 1-16, and may also be evicted from parks and Special Use Areas pursuant to Sec. 10-26.

(a) At the time of eviction, or as soon as reasonably practical thereafter, the person evicted shall be provided an eviction notice from the Director or the Appleton Police Department. The eviction notice shall specify the duration of the eviction and the area(s) of eviction.

(b) A person evicted may appeal the eviction by contacting the Director in writing within twenty-one (21) calendar days of the date of eviction and providing the Director with the reason for the appeal. The Director shall respond in writing to the appeal within twenty-one (21) calendar days with a decision. If the person is not satisfied with the Director's decision, he or she may appeal to the committee of jurisdiction by requesting to be heard at the next committee meeting where the members of the committee will have a reasonable amount of time to review the matter prior to the meeting date. The decision of the committee shall be final.

(c) Any person evicted for more than two (2) consecutive calendar years may appeal the eviction once each calendar year by following the procedure in Sec. 13-

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11(b).
(Ord 121-07, §1, 8-7-07; Ord 5-14, §1, 2-25-14, Ord 77-16, §1, 10-25-16)

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Chapter 15

Solid Waste and Recycling

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***Cross reference(s)**--Public works department, §2-366 et seq.; refuse disposal in parks and recreation areas, §13-80.
State law reference(s)--Solid waste, W.S.A. §289.01 et seq.; solid waste reduction, recovery and recycling, W.S.A. §287.01 et seq.

SOLID WASTE AND RECYCLING

ARTICLE I. IN GENERAL

Secs. 15-1 – 15-25. Reserved.

ARTICLE II. STORAGE AND COLLECTION*

Sec. 15-26. Definitions.

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

Approved shall mean approved by the Director of Public Works unless specifically stated otherwise.

Bundle shall mean to securely tie with string or twine.

City shall mean the City of Appleton.

Collecting and transporting service means a municipal or privately operated agency, business or service for the collecting or transporting of solid waste for disposal or recycling purposes.

Composting means the process of decaying organic matter, such as leaves, garden debris, grass clippings, raw kitchen scraps and other vegetative materials capable of natural decomposition.

County shall mean Outagamie County unless specifically stated otherwise.

Department shall mean the Department of Public Works.

Disposable bag means a one-way disposable bag made of polyethylene, or other plastic material consisting of a minimum of one and one-half (1½) mils thickness. Bags shall not exceed a volume capacity of thirty (30) gallons. Whenever the term “disposable bag” or “bag” is used in this chapter, such words will mean disposal bag as herein described.

Dwelling unit shall mean any habitable room or group of adjoining habitable rooms located within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking or eating of meals.

Eligible Electronic Devices shall include the following:

- (1) ***Consumer computers.*** High-speed data processing devices for performing logical, arithmetic, or storage functions that are marketed by the manufacturer for use by households or schools. Computers include traditional, desktop-style computers with a separate monitor and tower or box, laptop/notebook/netbook computers (any of these with a screen at least 7” in the longest diagonal direction are also video display devices);

and servers used by a household or covered school. Consumer computer does **not** include an automated typewriter or typesetter; or a portable hand-held calculator or device.

- (2) **Consumer printers.** One of the following that is marketed by the manufacturer for use by households or schools: a desktop printer, including inkjet and laser printers that can be placed on a work surface; or a device that prints and has other functions, such as copying, scanning, or sending facsimiles, and that is designed to be placed on a work surface. Consumer printer does **not** include a calculator with printing capabilities or a label maker.
- (3) **Consumer video display devices.** Televisions or computer monitors with a tube or screen that is at least 7 inches in its longest diagonal measurement and that are marketed by the manufacturer for use by households or schools.

Computer monitor means an electronic device that is a cathode ray tube or flat panel display primarily intended to display information from a consumer computer or the Internet. Computer monitors include: CRT or flat-panel monitors used with a desktop computer; “all-in-one” desktop-style computers where the screen is integrated with the processor; laptop/notebook/netbook computers; and e-readers or other portable devices with screens of at least 7 inches in the longest diagonal direction that display information from the Internet or a processor.

Television means an electronic device, with a cathode ray tube or flat panel display, primarily intended to receive video programming via broadcast, cable, or satellite transmission or to receive video images from surveillance or similar cameras. All types of televisions with a screen of at least 7 inches in the longest diagonal direction including older box-style, CRT models; LCD displays; LED/OLED displays; plasma and rear projection.

The following are **not** considered consumer video display devices under the law: a television or computer monitor that is part of a motor vehicle and that is incorporated into the motor vehicle by, or for, a motor vehicle manufacturer or a franchised motor vehicle dealer (i.e., a computer monitor or television that was built into the vehicle before it was purchased); a television or computer monitor contained within a clothes washer, clothes dryer, refrigerator, freezer, microwave oven, conventional oven or stove,

dishwasher, room air conditioner, dehumidifier, or air purifier; any video display device that is not marketed for use by households or schools (such as displays in equipment only used in specific industrial/commercial settings); digital photo frames; or portable DVD players

- (4) **Computer peripherals.** Keyboards or any other devices, other than a consumer printer, that are sold exclusively for external use with a consumer computer and that provide input into or output from a consumer computer, including, for example: external CD/DVD drives; external hard drives/backup drives; external modems; flash drives/memory sticks for use with computers; game controllers (joysticks, etc.) used with a computer; keyboards; mice; projectors (LCD, LED, etc.) used with a consumer computer; scanners; speakers used with a computer; and webcams or similar cameras specifically for a computer.
- (5) **Fax Machines.**
- (6) **DVD players.**
- (7) **VCRs.**
- (8) **Digital video players/recorders.**
- (9) **Telephones with video displays.** Cellular/mobile phones, including multifunction phones such as iPhones or BlackBerries. The following are **not** considered telephones with video displays under WDNR regulations: corded or cordless phones (phones that plug in to a phone jack in the wall).

Litter shall include any waste or other things, substances or materials such as garbage, rubbish, used tires, manure, stones, gravel, sand, earth, grass, hay, leaves, twigs, shrubs, branches, ashes, cinders, sawdust, sweepings, dirt, glass, earthenware, wire, nails, construction waste, liquid waste, ice, snow, paper and all other debris and discarded materials of similar nature.

Overflow refuse means refuse placed for collection in a disposable bag not placed inside a polycart or mechanically dumped container.

Person shall have the definition set forth in Appleton Municipal Code §1-2.

Polycart means a plastic container issued by the City of Appleton for the storage and collection of solid waste or recyclables.

Premises shall mean platted lot or part thereof or unplatted lot or parcel of land or plot of land, either

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occupied or unoccupied by any dwelling or nondwelling structure. Premises include the following categories:

- (1) **Residential, single-family premises.** Any housing building containing a single-family dwelling unit. For the purposes of this chapter, any housing building with less than five (5) dwelling units shall fall in this category. Each unit shall be regarded as a single-family dwelling unit.
- (2) **Multi-family premises.** All housing buildings having five (5) or more dwelling units.
- (3) **Commercial or business premises.** Any public or private place, building and/or enterprise devoted in whole or in part to a business enterprise whether non-profit or profit making in nature.
- (4) **Institutional premises.** Any institutional enterprise, including, but not limited to, hospitals, churches, schools, nursing homes, motels and homes for the aging.

Recyclables means all materials designated by the Director of Public Works for inclusion in the City recycling program.

Salvageable materials shall mean discarded material no longer of value as intended, but which is stored or retained from salvage, sale or future reuse.

Solid wastes shall be as defined in §289.01(33), Wisconsin Statutes; it includes the following categories:

- (1) **Brush** means trimmings from shrubs and trees, tree limbs less than six (6) inches in diameter and stalks from garden plants. Brush does not include stumps, root balls or logs greater than six (6) inches in diameter.
- (2) **Bulky wastes** shall mean discarded articles of such dimension as are not normally collected with domestic waste including, but not limited to, furniture, small rugs, and tires, but would be considered domestic wastes. In general, bulky wastes are those wastes too large to be placed in a disposable bag or polycart, and approved by the director.
- (3) **Commercial wastes** shall mean wastes resulting from the operation of business enterprises including, but not limited to offices, stores, restaurants and similar businesses.
- (4) **Construction and/or demolition waste** shall mean waste resulting from building construction, demolition, alteration, repair or remodeling, including excavated material and waste such as

concrete, stone, asphalt, sold, earth, dirt and brick.

- (5) **Domestic waste** shall mean garbage, refuse, ashes and other waste including, but not limited to metal, glass, paper, wood, rags, plastic, rubber, cloth, cans, bottles, litter, and small quantities of construction and/or demolition wastes, and limited nauseous and/or offensive wastes, with the understanding that these wastes resulting from human habitation and the usual routine of housekeeping of residential units or incidental to its operation. Domestic waste does not include grass clippings, leaves, tree waste, or yard waste.
- (6) **Garbage** shall be as defined in §289.01(9), Wisconsin Statutes.
- (7) **Grass clippings** means the product of ordinary mowing and maintenance of lawns during the growing season.
- (8) **Hazardous waste** shall be as defined in Wisconsin Administrative Code NR 605.04.
- (9) **Industrial waste** shall be as defined in Wisconsin Statutes §281.01(5).
- (10) **Liquid waste** shall include drain oil, dirty or waste grease, paints, lacquers, varnishes, thinners, cleaning agents or solvents and other similar waste materials.
- (11) **Nauseous or offensive materials** are those which are unwholesome in nature or have an unpleasant smell or are otherwise nauseous or offensive, such as manure, filth, carcasses, meat, fish, entrails, hides and hide scrapings, paint, kerosene, oily or greasy substances and also object that may cause injury to any person or animal, or damage to vehicle tires such as nails, tacks, pieces of metal, wire, briar thorns, broken glass and other similar materials or substances.
- (12) **Refuse** shall mean miscellaneous combustible and noncombustible waste material resulting from housekeeping activities including, not limited to, ashes, glass, metals, rubber, street wastes, wood, cloth and litter.
- (13) **Tree waste** shall mean waste resulting from the care of trees, shrubs and bushes by pruning and/or wind and storm damage and/or trimming including branches, limbs, trunks and stumps.
- (14) **Vehicle waste** shall mean waste resulting from discarded items of a vehicle, including but not limited to, tires, mufflers, exhaust pipes, engine parts, and could include whole vehicles.

- (15) ***Yard waste less than one inch in diameter*** means all materials originating in the yard and garden which are capable of natural decomposition, exclusive of grass clippings.

Special collection tag shall mean a tag issued by the Department of Public Works for the collection of tires, appliances, overflow refuse or other materials specified by the Director.
(Ord 54-94, §1, 4-20-94; Ord 149-09, §1, 10-13-09; Ord 150-10, §1, 10-12-10; Ord 21-14, §1, 5-13-14; Ord 1-22, §1, 1-19-22)

Sec. 15-27. Authority to establish additional rules and regulations.

The Director of Public Works is authorized to establish and enforce such rules and regulations deemed necessary for refuse collection and storage.
(Ord 54-94, §1, 4-20-94)

Sec. 15-28. Containers.

(a) Owners of a single-family premise shall be provided polycarts by the City for each premise. One polycart shall be for solid waste storage and the other shall be designated solely for the collection of recyclables. Only polycarts and bags marked with a special collection tag are permitted containers for solid waste collection for single-family residences. Recyclables shall only be disposed of in the designated polycart.

(b) Owners of multiple-family premises shall provide and maintain suitable containers having sufficient capacity to store a normal one- (1-) week accumulation or collection of garbage, refuse and recycling of all units.

(c) All containers used for the collection of solid waste material or recyclables shall be structurally sound and specifically designed for the storage of solid waste or recycling material. They shall be durable, rust resistant, nonabsorbent, watertight and easily cleaned. Containers used for solid waste and recycling storage or collection must have properly fitting covers unless specifically authorized by the Director of Public Works.

(d) One-way disposable bags made of polyethylene (minimum one and one-half (1½ mil)) properly secured, are acceptable containers for overflow refuse only when marked with a special collection tag.

(e) Garbage and refuse stored outside or on top of such containers will not be collected unless placed in a disposable bag and marked with a special collection tag. Bulky items such as furniture and carpets are exempted.

(f) Any container used for collection of solid waste or

recyclable material shall be maintained in a clean, sanitary and structurally sound manner so as to prevent the creation of a nuisance or menace to public health and safety.

(g) The use of dumpsters for the storage or disposal of solid waste or recyclables for one-(1-) or two-(2-) family residences is prohibited; except for the temporary use of a dumpster in conjunction with an active building or razing permit, or the use of a dumpster for a period not to exceed fourteen (14) days and the household waste only.

(h) Any container deemed defective by the Director of Public Works may be removed as refuse by the City following notification to the occupant.

(i) Other types of containers conforming to the intent of this section and approved by the Director of Public Works may be used.

(Ord 54-94, §1, 4-20-94; Ord 165-02, §1, 8-27-02; Ord 3-09, §1, 1-13-09; Ord 22-14, §1, 5-13-14; Ord 2-22, §1, 1-19-22)

Sec. 15-29. Storage generally.

(a) The owner or occupant of any premises shall be responsible for the sanitary storage of all solid waste generated on those premises.

(b) Solid waste shall be stored in containers manufactured for the storage and handling as described in §15-28. Any other container shall be used only after approval by the Department of Public Works.

(c) Toxic or hazardous wastes shall be stored in safe locations and in separate, closed containers in accordance with applicable state and federal regulations. Said containers shall be identified in accordance with state and federal labeling requirements.

(d) Nuisance abatement. Where a nuisance is found to exist due to insufficient containers, the nuisance shall be abated pursuant to Chapter 12 of the Appleton Municipal Code.

(e) Enclosures. Premises other than single-family may be required by the Director of Public Works to construct an enclosure to visually and physically screen their solid waste storage area where said area can be seen from a single-family premise.

(f) Improperly stored solid waste shall be considered to be litter.
(Ord 54-94, §1, 4-20-94)

Sec. 15-30. Preparation of solid waste and recyclables.

(a) Domestic solid waste may be mixed and placed in a common container.

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(b) Domestic waste shall be drained of all free liquid, then wrapped, packaged and/or bundled.

(c) Commercial waste must be drained and stored in approved containers.

(d) Brush must be cut into four- (4-) foot lengths and tied in bundles. Bundles shall be no larger than two (2) feet in diameter and weigh no more than forty-five (45) pounds. Max branch diameter is three (3) inches.

(e) Cardboard boxes shall be broken down and placed inside the recycling polycart for collection.

(f) Ashes shall be thoroughly cooled before being placed for collection.

(g) All refuse shall be free of jagged or sharp edges, protruding nails, broken glass, protruding screws and any other hazardous condition.

(h) Overflow refuse (tires and other solid waste designated by the City) must be marked with a special collection tag.

(i) Recyclables must be cleaned and placed in a recycling container. Paper does not need to be separated from other recyclables.

(j) Grass clippings, brush, leaves, tree waste and yard waste may not be mixed with domestic or commercial wastes.

(k) Eligible Electronic Devices may not be placed for collection with either solid wastes or recyclables. They must be disposed of in a manner and at a location approved by the Wisconsin Department of Natural Resources.

(Ord 54-94, §1, 4-20-94; Ord 4-09, §1, 1-13-09; Ord 150-09, §1, 10-13-09; Ord 151-10, §1, 10-12-10; Ord 23-14, §1, 5-13-14; Ord 3-22, §1, 1-19-22)

Sec. 15-31. Placement for collection.

(a) All solid waste, recyclables, yard waste or brush must be placed for pickup by 3:00 a.m. on the day of collection, but not before 5:00 p.m. of the day preceding the regularly scheduled pickup. Containers shall be returned to the point of storage no later than midnight the day of collection.

(b) All solid waste and recyclables shall be placed at the ground level next to the curb. During the winter months, containers must still be placed at ground level next to the curb. This may be accomplished by placing the containers in the driveway, or a suitable area can be shoveled out on the street side of the boulevard.

(c) The City will not be liable for damage to any property where sanitation crews collect solid waste from other than at the curb.

(d) Business establishments shall provide access to collection sites. Those sites blocked by vehicles or other obstructions will not be collected.

(e) Solid waste frozen in the container will not be collected.

(f) Bundled brush shall be placed in stacks aligned parallel to the curb and shall not obstruct either the street (and gutters) or sidewalk. In areas where there are no sidewalks, brush shall be within three (3) feet of the curb line and placed in stacks aligned parallel to the curb line.

(g) No person, except during times permitted by the Department of Public Works, shall remove or cause to be removed, any yard waste, brush, grass clippings or other yard debris, from his premises, residence, parking lot, parking area, business property or other area onto any public street.

(h) Recycling sites:

(1) The Director of Public Works or his designee may establish sites within the City of Appleton as recycling sites for the deposit of certain items including, but not limited to, yard waste, glass, aluminum, plastic and motor oil.

(2) No person shall deposit in areas designated pursuant to subsection (1), items and/or objects not specifically permitted by the Director of Public Works.

(3) Areas established pursuant to subsection (1) shall be used by residents of the City of Appleton only, unless authorized by the Director of Public Works.

(Ord 54-94, §1, 4-20-94; Ord 4-22, §1, 1-19-22)

Sec. 15-32. Scavenging of solid waste or recyclables placed for collection.

Authorized personnel. It shall be unlawful for any person other than authorized City employees or county recycling contractors to go through, sort or take anything from any solid waste or recyclable carts that have been set out for the purpose of being picked up by City or county refuse collection personnel. Yard waste, grass clippings, brush, and large bulky or overflow items not confined to a cart are not included in the prohibitions set forth in this paragraph.

(Ord 166-08, §1, 11-11-08; Ord 24-14, §1, 5-13-14; Ord 68-21, §1, 9-15-21)

Sec. 15-33. Collection service.

(a) **Residences.** Residential solid waste shall be collected one (1) time per week, and recycling every two (2) weeks, from dwelling units according to schedule established by the Director of Public Works. Solid waste set out for collection must originate at the residence being serviced; waste set out for collection that originated at a different property will not be collected.
(Ord 24-17, §1, 3-21-17)

(b) **Commercial establishments.** Commercial establishments shall privately contract for collection of solid waste and recycling. For existing commercial customers of the city using 90-gallon containers, solid waste shall be collected one (1) time per week.

(c) **Industrial waste.** The City does not collect industrial waste.

(d) **Yard waste.** Residential yard waste will be collected separately from all other waste. Times of collection shall be pursuant to a schedule on file in the Department of Public Works.

(e) **Brush.** Residential brush will be collected separately from all other waste. Times of collection shall be pursuant to a schedule on file in the Department of Public Works.

(f) **Bulky Overflow.** Residential bulky overflow shall be collected on the schedule on file with the Department of Public Works.

(g) **Grass clippings.** The City will not collect grass clippings.

(h) **Toxic and hazardous waste.** The City will not collect toxic and hazardous waste.

(i) **Small dead animals** shall be collected by the Department. Animals must be placed in a disposable bag.

(j) **Nauseous or offensive waste.** Liquid, manure, and other offensive or harmful waste. All liquid, hazardous or toxic waste and certain nauseous or offensive waste shall be stored separately from all other waste in approved containers. Such containers shall be clearly labeled, rodent resistant, nuisance free, sealed and secured to prevent access by the public, or as otherwise provided in the rules of the Director and not contrary to any order from the City of Appleton Health Officer or Director of Inspections. Such waste shall be considered commercial waste, and need not be collected by the Department.

(k) **Construction debris.** Construction debris shall not be collected by the City. It shall be the responsibility of the

owner and/or contractor to dispose of construction debris as provided by law.

(l) **Disposal of infectious material.** The removal of apparel, bedding or other refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision and direction of the City Health Officer. Waste shall be disposed of pursuant to Wisconsin Administrative Code NR 506.11.

(m) **Hazardous and/or toxic waste.** Placing or depositing any hazardous or toxic waste including, but not limited to, explosive materials such as dynamite, dynamite caps, shotgun shells, rifle cartridges, gunpowder, gasoline or other similar material in disposal bag, polycart or reusable container for collection is prohibited.

(n) **Leaves.** Leaves will be collected curbside during a fall collection period as designated by the Department of Public Works. Any person may alternatively transport leaves to a designated City recycling site for disposal. Persons so transporting leaves shall be responsible to cover or otherwise contain the leaves in a manner so as to prevent scattering or dumping of the leaves in transport. The Director of Public Works shall publish times the site shall be open for the disposal of leaves.

(o) **Lead acid batteries.** In this subsection, “lead acid battery” means any battery which is primarily composed of both lead and sulfuric acid, with a capacity of six (6) volts or more.

- (1) No person may place a used lead acid battery in mixed municipal solid waste.
- (2) No automotive battery retailers may dispose of a used lead acid battery except by delivery to the agent of a battery wholesaler, to a battery manufacturer for delivery to a secondary lead smelter, to a collection or recycling facility or to a secondary lead smelter.
- (3) Each battery improperly disposed under subsection (1) or (2) above shall constitute a separate violation.
- (4) Retailers and wholesalers of lead acid batteries shall provide for collection of used lead acid batteries for recycling as follows:
 - a. Any person selling lead batteries at retail shall accept at the point of transfer, in a quantity at least equal to the number of new batteries purchased, used lead acid batteries offered by customers.

- b. Any person selling lead acid batteries at wholesale shall accept at the point of transfer, in a quantity at least equal to the number of new batteries purchased, used lead acid batteries offered by customers. Any automotive battery wholesaler accepting batteries from any automotive battery retailer shall remove batteries from the retail point of collection not less than every ninety (90) days.

(p) **Eligible Electronic Devices.** The City will not collect eligible electronic devices. Eligible Electronic Devices left on the terrace shall be removed by the property owner.

(Ord 54-94, §1, 4-20-94; Ord 128-96, §1, 12-18-96; Ord 5-09, §1, 1-13-09; Ord 151-09, §1, 10-13-09; Ord 152-10, §1, 10-12-10; Ord 5-22, §1, 1-19-22)

Sec. 15-34. Fees.

(a) All charges related to the disposal of solid waste shall be on file in the Department of Public Works. These shall include, but are not limited to, the amount to be charged for overflow bag tags, tires, can charges or any other permit or charge pursuant to this article.

(b) Unscheduled overflow collections or brush/yard waste collections shall result in the assessment of additional fees.

(c) Additional collection and disposal fees shall be assessed to property owners who fail to properly dispose of Eligible Electronic Devices.

(Ord. 54-94, §1, 4-20-94; Ord 152-09, §1, 10-13-09; Ord 153-10, §1, 10-12-10; Ord 6-22, §1, 1-19-22)

Sec. 15-35. Penalty.

Any person violating any provision of this article shall forfeit not less than two hundred and fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00)

(Ord 54-94, §1, 4-20-94 ; Ord 7-22, §1, 1-19-22)

ARTICLE III. RATES AND CHARGES

Sec. 15-36. Definitions.

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

Commercial user means any property used primarily for the conduct of business or for the purpose of buying or selling goods or services.

Municipal user means any facility owned and operated by the City municipal corporation or any other municipal agencies.

Operation and maintenance costs means all direct and indirect costs, exclusive of debt service costs, necessary to ensure adequate solid waste collection on a containing basis in conformance with state, federal and local requirements and to ensure optional long-term facility management.

Person means any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

Residential user means any property used primarily as a domicile or functions customarily ancillary to such purposes.

(Ord 73-94, §1, 6-18-94)

Sec. 15-37. Imposed.

It is hereby determined and declared to be necessary for the protection of the health, safety and welfare of the public to allocate all of the cost of collection to solid waste of the City to the property served. The cost of such service shall be imposed on the property served as a special charge for current services rendered and shall be known as solid waste collection charges and such charges are hereby imposed by the provisions of this article and W.S.A. §66.0627. The solid waste collection charge imposed by this division shall apply equally to all users that each user shall pay in direct proportion to the service received.

(Ord 73-94, §1, 6-18-94)

Sec. 15-38. Basis.

The solid waste collection charges imposed by this article shall be based on the size and number of the containers at the location, according to Department of Public Works records, during the quarter the charge is incurred.

(Ord 73-94, §1, 6-18-94; Ord 118-524, §1, 9-18-24)

Sec. 15-39. Rates.

The solid waste collection charges imposed by this division shall be based upon the rates adopted by the Common Council. The rates shall be reviewed periodically and shall be such that they produce sufficient revenue to meet budget plans for their effective time period. Said rates shall be on file in the Office of the City Clerk.

(Ord 73-94, §1, 6-18-94; Ord 87-94, §1, 7-20-94)

Sec. 15-40. Collection.

(a) The City Department of Finance is hereby appointed as the collection agency for the City and solid waste collection charges shall be collected quarterly at the same time as water payments become due. Bills shall be prepared by the Department of Finance and sent to the owner or occupant of each premises served. The Department of Finance shall allocate the actual cost of billing and collecting.

(b) The bills for solid waste collection charges shall be mailed to the designated utility bill recipient, but this mailing shall not relieve the owner of the property from liability for rental property in the event payment is not made as required in this article. The owner of any property served which is occupied by tenants shall have the right to examine collection records of the City for the purpose of determining whether such rates and charges have been paid for such tenants, provided that such examination shall be made at the office at which the records are kept and during the hours that such office is open for business.

Sec. 15-41. Lien for delinquent charges.

(a) Solid waste collection charges shall not be payable in installments. If solid waste collection charges remain unpaid after a period of twenty (20) days from the date of utility bill, such bill shall become a delinquent special charge and shall become a lien as provided in W.S.A. §66.0627. Said charges shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charges. Unpaid charges shall be assessed a one (1) percent per month late payment charge to bills not paid within twenty (20) days of issuance.

(Ord 27-00, §1, 4-22-00)

(b) All delinquent special charges shall be subject to a ten (10) percent penalty in addition to all other charges and prior penalties or interest when the delinquent special charge is extended upon the tax roll.

(Ord. 73-94, §1, 6-18-94)

(The next page is 1045.)

CHAPTER 23

ZONING

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Chapter 23

Zoning

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Editor's Note: This chapter was repealed and recreated pursuant to Ordinance 74-04, adopted June 2, 2004 and published June 7, 2004.

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Editor's Note: All references to Planning Director or Planning Department were changed to Community Development Director or Community Development Department pursuant to Ordinance 139-05, adopted December 7, 2005, published December 12, 2005 and effective December 13, 2005.

Editor's Note: All references to Community Development Director or Community Development Department were changed to Community and Economic Development Director or Community and Economic Development Department pursuant to Ordinance No. 32-12, adopted April 4, 2012, published April 9, 2012 and effective April 10, 2012.

Editor's Note: All references to Community and Economic Development Director or Community and Economic Development Department were changed to Community Development Director or Community Development Department pursuant to Ordinance No. 25-24, adopted May 1, 2024, published May 6, 2024 and effective May 7, 2024.

ARTICLE I. INTRODUCTORY INFORMATION

Sec. 23-1. Title.

This chapter shall be known and may be cited and referred to as the “Appleton Zoning Ordinance”, or “this chapter”.

Sec. 23-2. Purpose; intent.

This chapter is adopted for the following purposes:

- (a) To promote and protect the health, safety, morals, comfort, convenience and general welfare of the community through encouraging the most appropriate uses of land in the city.
 - (b) To achieve the arrangement of land uses described in the VISION 20/20: Comprehensive Plan for the development of the City as adopted by Council.
 - (c) To minimize congestion in the public rights-of-way through the regulation of off-street parking, maneuvering, loading and signage;
 - (d) To ensure the provision of adequate open space for light, air and fire safety.
 - (e) To facilitate the adequate, efficient and cost effective provisions for infrastructure and other public services and facilities.
 - (f) To promote the conservation, protection, restoration and enhancement of the historic resources of the city.
 - (g) To enhance economic development.
 - (h) To conserve the natural, scenic beauty and attractiveness of the City and to enhance the aesthetic desirability of the environment.
 - (i) To divide the City into districts within which the uniform location, sizes and uses of buildings and minimum open spaces shall be regulated.
 - (j) To prohibit the use of buildings, structures and lands which are incompatible with the intended use or development of lands within specified districts.
 - (k) To provide regulations pertaining to pre-existing lots, structures and uses that do not conform to provisions of this chapter.
 - (l) To provide for the compatible and appropriate use of land throughout the City.
 - (m) To promote orderly development of all areas of the community.
 - (n) To provide for the administration of this chapter and its amendments.
 - (o) To define the powers and duties of the officers and bodies charged to administer this chapter.
 - (p) To describe penalties for the violation of provisions of this chapter or any of its amendments.
- (Ord 61-94, §5, 5-18-94)

23-3. Relationship to comprehensive plan.

The VISION 20/20: Comprehensive Plan for the City of Appleton, adopted on July 8, 1996, and as amended establishes the goals, objectives and strategies that serve as a basis for this zoning ordinance. All regulations or amendments adopted pursuant to this ordinance shall be generally consistent with the VISION 20/20: Comprehensive Plan as adopted and revised or updated.

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Secs. 23-4 – 23-20. Reserved.

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ARTICLE II. DEFINITIONS

Sec. 23-21. Purpose

The following words and terms, wherever they occur in this chapter, shall be construed as herein defined. Words not defined in this zoning ordinance shall be interpreted in accordance with definitions in Municipal Code of the City of Appleton, *The New Illustrated Book of Development Definitions* by Harvey S. Moskowitz, the Wisconsin State Statutes, the State Building Code or Uniform Dwelling Code. If a word or term is not defined as identified by the protocol above, it shall have the meaning set forth in the latest edition of Webster's New World College Dictionary.
(Ord 24-20, §1, 3-25-20)

Sec. 23-22. Words and terms defined.

For the purposes of this article, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise.

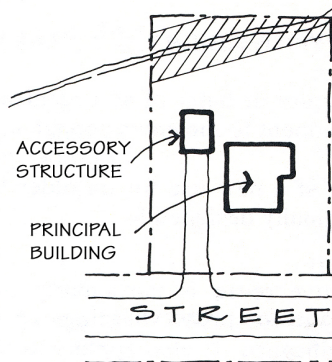
A

Abandonment means to cease or discontinue a use or activity without intent to resume, but excluding the temporary or short term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

Abutting means having a common border with, or being separated from such a common border by a right-of-way, alley or easement.

Accessory building means a subordinate building, the use of which is incidental to and customary in connection with the principal building, structure or use, and which is located on the same lot with such principal building, structure or use. Examples of accessory buildings include, but are not limited to, attached garages, detached garages, attached carports, detached carports, sheds and gazebos.

Accessory structure means a subordinate structure, the use of which is incidental to and customary in connection with the principal building, structure or use, and which is located on the same lot with such principal building, structure or use. An accessory structure is not necessarily a building. Examples of non-building accessory structures include, but are not limited to, parking lots, fences, patios, decks, play equipment, swimming pools and tennis or basketball courts.



Accessory use means a subordinate use that is incidental to and customary in connection with the principal building, structure or use, and is located on the same lot with such principal building, structure or use.

Addition or Expansion means an increase in gross floor area, gross square foot area, height, lot coverage, building coverage, length, or width of an existing building, structure, off-street parking lot, off-street loading area or use.

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Adjacent. See ***Abutting.***

Agriculture means a use involving the raising of field crops and horticulture.

Alley means a public thoroughfare that generally affords only a secondary means of access to abutting property.

Alteration, Building or Structure means any change involving the addition, removal, replacement, relocation of supporting members of an existing building or structure, not including off-street parking lots and loading areas, such as bearing walls, posts, columns, beams, plates, doors, windows, foundation walls, roofs or exterior walls.

Antenna means any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves, digital signals, radio frequencies, wireless telecommunications signals, including, but not limited to, directional antennas, such as panel(s), microwave and satellite dishes, and omni-directional antennas, such as whip antennas.

Apartment dwelling means a use containing a room or suite of rooms rented or leased, with cooking facilities available within the suite of rooms which is occupied as a residence by a single family or a group of individuals living together as a single family unit. This includes any unit in residential buildings with three (3) or more dwelling units or any one (1) or more units in a building used primarily for nonresidential uses.

Architectural features means ornamentation or decorative features attached to or protruding from an exterior wall including, but not limited to, cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

Arterial street means a street that is designed to efficiently carry substantial traffic volumes within and through the City. Access to abutting properties is a subordinate arterial street function.

Asphalt plant means use that stores materials for and manufactures asphalt products for distribution off premises.

Assisted living and retirement home means a use involving a nonprofit residential facility, which as its primary function provides personal care above the level of room and board to retired persons, where three (3) or more unrelated adults or their spouses have their principal residence and where support services, including meals from a common kitchen, are available to residents.

Attached building or structure means a building or structure, which is attached to another building or structure by a wall, a roof or by a continuous foundation.

Automobile/vehicle car wash. See ***Car wash.***

Automobile maintenance shop means a use where the exclusive service performed or executed on any motor vehicles of less than twenty-six thousand (26,000) pounds gross vehicle weight rating (GVWR), for compensation, includes the installation of exhaust system, repair of the electrical system, transmission repair, brake repair, tire repair and installation, rust proofing, motor vehicle diagnostic center, major and minor mechanical repairs.

Automobile, RV, truck, cycle and boat rental and display lot means a use involving the display and temporary storage of motor vehicles, including recreational vehicles, trucks, motorcycles and boats for rental or lease to the general public and where repair or service work to those vehicles is incidental to the operation of the rental fleet.

Automobile, RV, truck, cycle and boat sales and display lot means a use involving the display and temporary storage, for sale, of new or used motor vehicles including recreational vehicles, trucks, motorcycles and boats, and where repair or service work is incidental to the operation of new or used vehicle sales.

B

Bar. See *Tavern*.

Barrier means anything that prevents access to a particular location.

Base course means the horizontal layer of stone aggregate or other compacted material underneath the surface course.

Bed and breakfast establishment means a use involving lodging in a single-family dwelling that provides for overnight accommodations and a morning meal to transients for compensation.

Berm means earthen material and soil covered with sod placed in an irregular shaped mound or linear shaped mound along a property line, right-of-way, or other feature. Berm shall also include earthen berm.

Bicycle parking space means an area designated and equipped for the purpose of parking and securing a bicycle.

Body repair or paint shop means a use conducting body work, frame work, welding and painting of an entire vehicle, boat, RV, or truck or a major portion thereof of any of the aforementioned motor vehicles of less than twenty-six thousand (26,000) pounds gross vehicle weight rating (GVWR), or boats.

Brewery means a use which manufactures, bottles and packages a total of more than 10,000 barrels or 310,000 U.S. gallons of fermented malt beverages per calendar year on premises including storage and distribution of fermented malt beverages that have been manufactured on the premises.

Broadcast Equipment Building, Shelter or Cabinet means a cabinet or building used to house equipment used by broadcast station or an owner.

Broadcasting and receiving antennas means any broadcasting and receiving device mounted on a broadcast tower, building or structure and used in broadcasting or receiving audio or visual programming materials by a radio & television broadcasting station or communications between individuals. This broadcasting or receiving device includes but is not limited to omni-directional antennas, such as whip antennas, satellite dishes and microwaves.

Broadcasting towers means a freestanding structure designed to support broadcast or receiving antennas.

Buffer means the use of land, topography, difference in elevation, space, fences or landscape planting to screen, or partially screen, a use or property from another use or property.

Buildable area means the space remaining on a lot after the minimum setback, open space, easements and other site constraint requirements of this chapter have been satisfied.

Building means any structure having a roof that may provide shelter, support, protection or enclosure of persons, animals or property of any kind.

Building Code means the various adopted codes of the City of Appleton, that regulate construction and required building, electrical, HVAC permits, plumbing permits and other permits to do work regulated and adopted by the Appleton Municipal Code pertaining to building/structure and building/structure regulation.

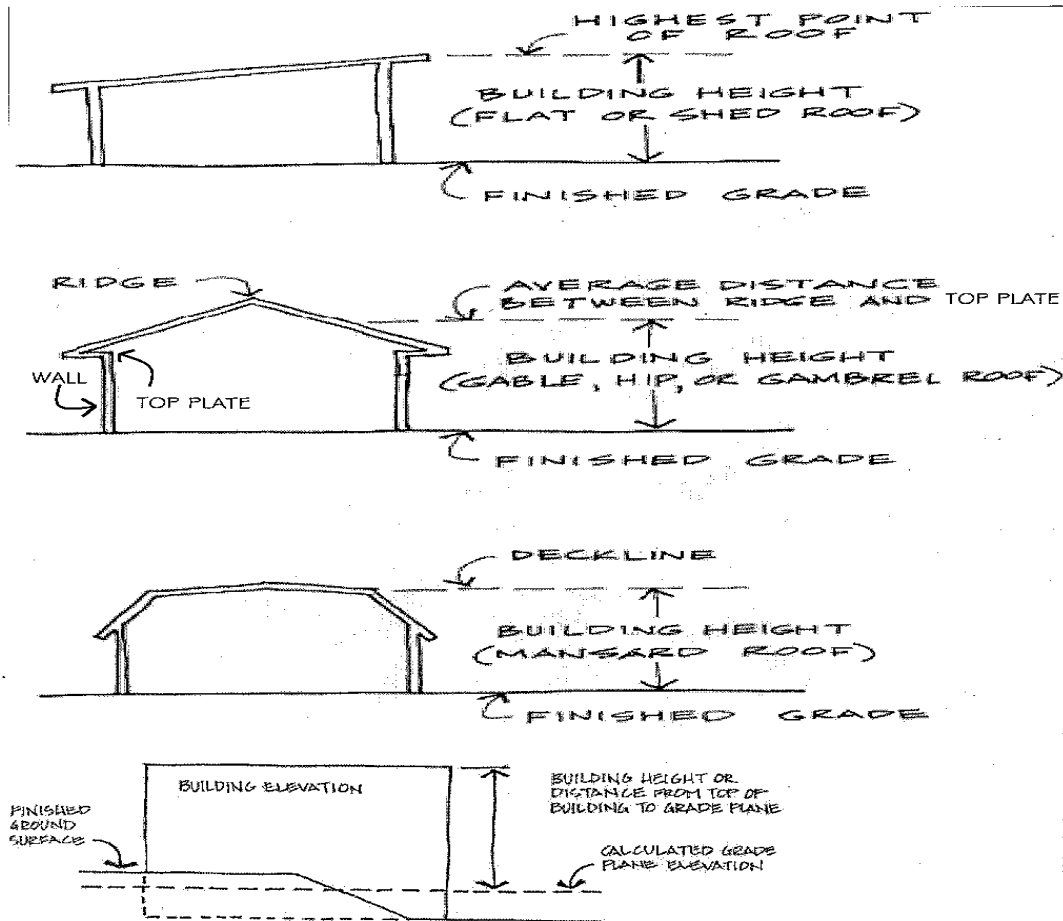
Building coverage means a percentage figure referring to that portion of a lot covered with principal and/or accessory buildings.

Building depth means the horizontal distance between the front wall and the rear wall of a building.
(Ord 144-24, §1, 11-6-24)

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Building footprint means the ground area covered by and including the exterior dimensions of a building, including enclosed porches, attached garages and carports.

Building height means the vertical distance to be measured from the finished grade plane of a building line, to the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the average height between the top plate and ridge for gable, hip and gambrel roofs. (See graphic below)



Building line means a line separating buildable area from any required yards or open spaces as defined herein. Building line will constitute the footing walls rather than the overhang.

Building, principal means a building which contains the primary use of the lot, as contrasted to accessory structure, building or use. In any residential zone a dwelling shall be deemed to be the principal building on the lot.

Bulk flammable or combustible liquid storage or distribution facility means a use involving the storage and eventual resale to distributors or retail dealers of liquids, chemicals, or petroleum products that, by reason of their toxic, caustic, corrosive, abrasive, flammable or combustible nature, may be detrimental to the health of any person handling or otherwise coming into contact with such liquids.

Bus terminal means any use involving the storage or parking of motor-driven buses and the loading and unloading of passengers.

Business means any lawful use, occupation, employment or enterprise where merchandise is exhibited or sold or where services are offered for compensation.

C

Canopy means a structure constructed of fabric or pliable material, metal, wood, brick or other material, consisting of a roof and support by columns or stanchions, not enclosed, attached or unattached to a building. Examples of canopies include, but are not limited to, gas pump canopies at gasoline stations, canopies associated with a temporary use, drive-through canopies at banks, pharmacies and restaurants.
(Ord 33-15, §1, 3-24-15)

Car wash means the use of a tract of land, building, or portion thereof, for the manual or automatic washing and cleaning of passenger vehicles, recreational vehicles or other light duty equipment.

Carport means a detached or attached accessory building that consists of a roof and that has at least two (2) sides completely unenclosed from the ground to the roof, which is designed primarily for storage and/or parking of passenger vehicles, trailers, recreational vehicles, and trucks of a rated capacity not in excess of ten thousand (10,000) pounds gross weight.

Cemetery means the use of land or land dedicated for the burial of the dead, including mausoleums, necessary sales and maintenance facilities.

Certificate of Occupancy means a document issued by the proper authority certifying that a proposed development project complies with the provisions of this chapter.

Change of use means the replacement of an existing use on any portion of a lot, by a new use or change in the nature of any existing use, but does not include a change of ownership, tenancy, or management associated with a use in which the previous nature of the use remains unchanged. A change in use from a vacant building or structure to an occupied building or structure shall be considered a Change of use, unless the use is a continuation of a prior use. For the purposes of this chapter, the prior use includes the last established use that was issued a certificate of occupancy to legally occupy the vacant building or structure.

Child welfare agency means any use operated by a person required to be licensed by the Department of Health and Family Services that takes custody of and provides care and maintenance for four (4) or more children for a period of seventy-five (75) days in any consecutive twelve (12) month period.

Christmas tree sales lot, outdoor means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant displays and sells Christmas trees and related holiday items such as wreaths and Christmas tree stands to the general public.

Circus and carnival means any use including a temporary outdoor amusement center, bazaar, or fair, involving the use of special purpose equipment operated by professional operators and where activities include such things such as: live performances, animal exhibits, rides, exhibitions, food services, sales, and/or small scale games.

Class 2 notice means notice of a public hearing that is required by Wisconsin Statutes to be inserted twice into the official municipal newspaper. For City planning matters, notice is required once in each of two (2) separate weeks prior to the scheduled hearing.

Class A vehicle means any combination of vehicles with a gross vehicle weight rating, actual gross weight or registered weight of over 26,000 pounds, if the aggregate total gross vehicle weight rating, actual gross weight or registered weight of the vehicle or vehicles being towed is in excess of 10,000 pounds.

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Class B vehicle means any single vehicle with a gross vehicle weight rating, actual gross weight or registered weight of over 26,000 pounds, and any such vehicle towing a vehicle or vehicles with an aggregate total gross vehicle weight rating, actual gross weight or registered weight of 10,000 pounds or less.

Class C vehicle means any single vehicle with a gross vehicle weight rating, actual gross weight and registered weight of 26,000 pounds or less, including any such vehicle towing a vehicle with a gross vehicle weight rating, actual gross weight and registered weight of less than 10,000 pounds, if any of the following applies:

1. The vehicle is designed to transport sixteen (16) or more passengers, including the driver.
2. The vehicle is transporting hazardous materials requiring placarding or any quantity of a material listed as a select agent or toxin under 42 CFR 73.

Class D vehicle is any motor vehicle not identified as a Class A, B, C, or M motor vehicle.

Class M vehicle means any type 1 motorcycle.

Club means any use where a nonprofit association of persons who are bona fide members paying regular dues, and who are organized for some common purpose. Clubs shall exclude places of worship or groups organized solely or primarily to render a service customarily carried on as a commercial enterprise.

Clubhouse means a support facility in conjunction with a golf course, that provides services to patrons of the golf course.

College or university. See *Educational institution, college or university*.

Commercial entertainment means a use that provides services related to the entertainment field within an enclosed building. Examples include: theaters, motion picture theaters, miniature golf, skate park, bowling alleys, pool and billiard halls, amusement arcade, concerts or music halls and similar entertainment activities.
(Ord 144-24, §1, 11-6-24)

Commercial truck body and/or paint shop means a use conducting body work, frame work, welding and painting of the entire vehicle or major portion thereof any truck, tractor, semi-trailer or truck-trailer combination of 26,000 pounds gross vehicle weight rating (GVWR) or more.

Commercial truck maintenance shop means a use where the exclusive service performed or executed on any truck tractor, semi-trailer combination of 26,000 pounds gross vehicle weight rating (GVWR) or more, for compensation shall include the installation of exhaust system, repair of the electrical system, transmission repair, brake repair, tire repair and installation, rust proofing, truck diagnostic center, major and minor mechanical repairs.

Commercial use means a use that involves conducting business, including the sale of goods and/or services.

Community-based residential facility means a use where five (5) or more adults who are not related to the licensed operator or administrator and who do not require care above intermediate level nursing care, reside and receive care, treatment, or services that are above the level of room and board but that include no more than three (3) hours of nursing care per resident. (Considered a community living arrangement) A community-based residential facility is subject to the standards listed in §23-52 of this ordinance.

“Community-based residential facility” does not include any of the following:

(a) A convent or facility owned or operated by members of a religious order exclusively for the reception and care or treatment of members of that order.

(b) A facility or private home that provides care, treatment and services only for victims of domestic abuse, as defined in W.S.A. §49.165(1)(a), and their children.

(c) A shelter facility as defined as under W.S.A. §16.308(1)(d).

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(d) A place that provides lodging for individuals and in which all of the following conditions are met:

- (1) Each lodged individual is able to exit the place under emergency conditions without the assistance of another individual.
- (2) No lodged individual receives from the owner, manager or operator of the place or the owner's, manager's or operator's agent or employee any of the following:
 - a. Personal care, supervision or treatment, or management, control or supervision of prescription medications.
 - b. Care or services other than board, information, referral, advocacy or job guidance; location and coordination of social services by an agency that is not affiliated with the owner, manager or operator, for which arrangements were made for an individual before he or she lodged in the place; or, in the case of an emergency, arrangement for the provision of health care or social services by an agency that is not affiliated with the owner, manager or operator.

(e) An adult family home.

(f) A residential care apartment complex.

Community garden means land or roof tops that are managed and maintained by a group of individuals, an organization or business to grow and harvest fruits, vegetable, flowers, and other plant and herb products for education, for personal or group consumption or for donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed by members of the group and may include common areas maintained and used by group members.

(Ord 45-12, §1, 6-6-12)

Community living arrangement means any of the following uses licensed or operated or permitted under the authority of the Department of Health and Family Services: residential care centers for children and youth, as defined in W.S.A. §48.02(15d), and operated by child welfare agencies licensed under W.S.A. §48.60, group homes for children, as defined in W.S.A. §48.02(7), and community-based residential facilities, as defined in W.S.A. §50.01(1g). Community living arrangements are subject to the standards listed in §23-52 of this ordinance.

This definition does not include: adult family homes, as defined in W.S.A. §50.01(1), day care centers, nursing homes, general hospitals, special hospitals, and prisons or jails.

Comprehensive plan means a compilation of policy statements, goals, standards and maps for guiding the physical, social, and economic development, both private and public, of the municipality and its environs adopted by the City and as may be amended from time to time.

Concrete mixing plant means a use that stores water, aggregate and cement and mixes those items for the production of concrete for distribution into trucks for off site use.

Condominium means a building or group of buildings in which dwelling units, offices or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

County means the county in which the property is located: Outagamie, Calumet or Winnebago.

Covenant means a contract or other written agreement between private parties that constitutes a restriction on a particular parcel of land.

Craft-Distillery means a use which manufactures, bottles and packages a total of not more than 100,000 proof gallons of intoxicating liquor under the name of "whiskey", "brandy", "gin", "rum", "spirits", "cordials" or any other name per calendar year on the premises including storage and distribution of intoxicating liquor that has been manufactured on the premises.

Supp. #100

D

Day care, adult means a day program that provides the elderly and other adults with services when their caregivers are at work or need relief.

Day care, family means a use licensed as a day care center by the State of Wisconsin Department of Health and Family Services where care is provided by a resident for not more than eight (8) children.

Day care, group means a use, not in a private residence, that provides care and supervision for nine (9) or more children, licensed by the State of Wisconsin Department of Health and Family Services.

Density means the ratio of the number of dwelling units to the lot area.

Detached building or structure means a freestanding building or structure and where all sides of the building or structure are surrounded by yards or open space on the same lot.

Developed property means all parcels or a portion thereof that is improved with buildings, paved off-street parking spaces, or that is actively used as recreational facilities.

Development project means the construction of a new building or other structures on a lot, the change in use of any building, structure or land, the expansion or alteration of an existing building or structure, the relocation of an existing building or structure on a lot or another lot, or the use of open land for a new use.

Development regulations means the parts of a zoning ordinance that applies to elements including but not limited to parking, loading and unloading, building and structure height, lot coverage, design and yard setback requirements.

Distillery means a use which manufactures, bottles and packages a total of more than 100,000 proof gallons of intoxicating liquor under the name of “whiskey”, “brandy”, “gin”, “rum”, “spirits”, “cordials” or any other name per calendar year on the premises including storage and distribution of intoxicating liquor that has been manufactured on the premises.

Domestic animal means any animal that has been bred and/or raised to live in or about the habitation of humans and is dependent on people for food and shelter.

Domicile means a residence that is a permanent home to an individual.

Drive through facility (also drive-in facility) means any portion of a building or structure from which business is transacted or is capable of being transacted, directly with customers located in a motor vehicle during such business transaction.

Driveway means an area on private property providing access for vehicles to a public right-of-way.

(a) **Residential driveway** means a driveway leading directly from the street to a garage, carport, side yard or rear yard parking area which provides vehicle access to a parking area located on a lot serving single-family detached, two-family dwellings and zero lot line dwellings, including driveway extensions.

(b) **Commercial driveway** means a driveway providing vehicle access to property used for purposes other than single-family detached, two-family dwellings and zero lot line dwellings.

(c) **Driveway apron** means that portion of any driveway between the traveled portion of the street and the property line.
(Ord 144-24, §1, 11-6-24)

APPLETON CODE

Dwelling means a building or part of a building containing living, sleeping, housekeeping accommodations, and sanitary facilities for occupancy by one (1) or more families.

Dwelling, incidental apartment means a portion of a building designed for occupancy by a single family.

Dwelling, detached means single family dwelling that is entirely surrounded by open space on the same lot.

Dwelling, multi-family means a building or portion thereof containing three (3) or more dwelling units.

Dwelling, residential means a building, structure or part of a building or structure, containing living, sleeping, housekeeping accommodations, and sanitary facilities that is used or intended to be used as a home, residence, or sleeping place by one (1) or more families maintaining a common household.
(Ord 144-24, §1, 11-6-24)

Dwelling, single family detached means a building containing one (1) dwelling unit that is entirely surrounded by open space on the same lot. Typically referred to as a single-family home.

Dwelling, two-family (or duplex) means a building containing two (2) dwelling units. The dwelling units are attached and may be located on separate floors or side-by-side.

Dwelling, two-family zero lot line means two (2) single-family dwellings, attached by a common wall, each being on separate lots (a side-by-side duplex with each unit typically under separate ownership).

Dwelling unit means a residential building or portion thereof intended for occupancy by one (1) family, but not including hotels, motels, boarding or rooming houses or tourist homes.

E

Easement means a grant by a property owner for use of a parcel of land by the public or any person for any specific purpose or for purposes of access, constructing and maintaining utilities, including: sanitary sewers, water mains, electric lines, telephone lines, cable television lines, other transmission lines, storm sewer, storm drainage ways, gas lines or other service utilities.

Educational institution; business, technical or vocational means a use including specialized instructional classes that provides training for business, commercial, or trade skills such as accounting, data processing or automotive repair.

Educational institution; college or university means a public or private post-secondary use, with an academic curricula, including uses, structures, and/or facilities sanctioned by, ancillary to, or necessary to the operation of the college or university. This includes, but is not limited to the following ancillary uses affiliated with the college or university: food sales, retail sales indoor and/or outdoor recreation facilities, offices, printing, museums and professional service.

Educational institution; elementary school, junior high school, high school means a public or private use that provides an academic curricula of elementary or secondary academic instruction, kindergartens, elementary schools, middle schools, junior high schools and high schools.

Essential services means overhead or underground electrical, gas, steam or water transmission or distribution systems, and collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or systems as are required for the protection of public health, safety or general welfare, including: utility substations, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables and similar improvements.

Expansion. See *Addition or Expansion*.

F

Fair market value means the assessed value divided by the ratio of assessed value to recommended value as last published by the Department of Revenue or the City Assessor for the City of Appleton.

Family means one (1) or more individuals not necessarily related by blood, marriage, adoption, or guardianship, living together under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

Family home (A), adult means a use operated by a person or entity licensed under the authority of the Department of Health and Family Services and located in a private residence where care and maintenance above the level of room and board, but not including nursing care, are provided in the private residence by the care provider whose primary domicile is this residence for three (3) or four (4) adults, or more adults if all of the adults are siblings, each of whom has a developmental disability, as defined in W.S.A. §51.01(5). Additionally, the residence must have been licensed under W.S.A. §48.62, as a foster home or treatment foster home for the care of adults referenced herein for at least twelve (12) months before any of the adults under care reached eighteen (18) years of age. An adult family home (A) operated by a person or entity whose primary domicile is this residence and is certified under W.S.A. §50.032 (1m)(b) is not subject to the standards listed in §23-52 of this ordinance.

Family home (B), adult means a use operated by a person or entity licensed as a foster home under the authority of the Department of Health and Family Services and is located in a private residence where care and maintenance are provided to children, the combined total of adults and children so served being no more than four (4) or more adults or children, if all of the adults or all of the children are siblings. Additionally, the residence must have been licensed under W.S.A. §48.62 as a foster home or treatment foster home for the care of adults referenced herein for at least twelve (12) months before any of the adults under care reached eighteen (18) years of age. An adult family home (B) operated by a person whose primary domicile is this residence and is certified under W.S.A. §50.032(1m)(b) is not subject to the standards listed in §23-52 of this ordinance. Adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies are subject to the standards listed in §23-52 of this ordinance.

Family home (C), adult means a use operated by a person or entity licensed as a treatment foster home under the authority of the Department of Health and Family Services and is located in a private residence where care and maintenance are provided to children, the combined total of adults and children so served being no more than four (4). Additionally, the residence must have been licensed under W.S.A. §48.62 as a foster home or treatment foster home for the care of adults referenced herein for at least twelve (12) months before any of the adults under care reached eighteen (18) years of age. An adult family home (C) operated by a person whose primary domicile is this residence and is certified under W.S.A. §50.032(1m)(b) is not subject to the standards listed in §23-52 of this ordinance. Adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies are subject to the standards listed in §23-52 of this ordinance.

Family home (D), adult means a use operated by a person or entity licensed under the authority of the Department of Health and Family Services or certified under W.S.A. §50.033(1m)(b) and is located in a private residence where three (3) or four (4) adults who are not related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to seven (7) hours per week of nursing care per resident. An adult family home (D) is not subject to the standards listed in §23-52 of this ordinance.

Farmers market means a temporary or seasonal use selling home produced vegetables produce, or goods in a pre-designated area, where vendors are generally individuals who have raised the vegetables or produce or have taken the same on consignment for retail.

Farmers market, outdoor means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot by two (2) or more temporary merchants are displaying and selling either products of the farm or garden or any combination of products of the farm and garden and commercially processed foods, household products, crafts and handmade items.

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Fence means a structure constructed to enclose, screen, decrease noise levels, separate areas, or decorate areas of a lot. Fences include walls, hedges and berms meeting this definition. The term “Fence” shall not include “Guardrail”. Fences are further defined as to their general purpose as follows:

(a) **Boundary fence** means a fence placed on or near the boundary lines common with adjacent properties to indicate the location of such boundaries.

(b) **Sound barrier fence or berm** means a fence or berm constructed to decrease the noise levels along an abutting major roadway.

Fireworks sales, outdoor means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant displays and sells small fireworks and related 4th of July items.

Floor area, gross floor area means the sum of the horizontal areas of all floors of a building or structure measured from the exterior face of the exterior walls, or from the centerline of a wall separating two (2) buildings, but excluding any space where the floor-to-ceiling height is less than six (6) feet.

Floor area, useable means the area to be used for the sale of merchandise or services or for use to serve patrons, clients or customers. Floor area shall be measured from the interior faces of the exterior walls. Area excluded from useable floor area includes: areas principally used for storage or processing of merchandise, hallways, stairways, elevator shafts, areas for utilities or sanitary facilities and mechanical areas.

Foster home means a use operated by a person or entity required to be licensed by W.S.A. §48.62(1)(a) and that provides care and maintenance for no more than four (4) children or, if necessary to enable a sibling group to remain together, for no more than six (6) children or, if the Department of Health and Family Services promulgates rules permitting a differing number of children, for the number of children permitted under those rules.

Foster home, treatment means any facility that is operated by a person or entity required to be licensed under W.S.A. §48.62(1)(b), that is operated under the supervision of the Department of Health and Family Service, a county department or a licensed child welfare agency, and that provides to no more than four (4) children care, maintenance and structured, professional treatment by trained individuals, including the treatment foster parents.

Freight distribution or moving center means a use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

Frontage means that boundary of a lot that abuts a dedicated public street.

Funeral home means a building used for the preparation of the deceased for display and burial, along with the rituals connected therewith, before burial or cremation. (See also **Professional service**)

G

Garage means a detached or attached accessory building or a portion of the principal building, which is designed primarily for storage and/or parking of passenger vehicles, trailers, recreational vehicles, and trucks of a rated capacity not in excess of ten thousand (10,000) pounds gross weight.

Gasoline sales means a use limited to the retail sales of gasoline, motor oil, lubricants, motor fuels, travel aides, minor automobile accessories and convenience goods to the public, but not including automobile maintenance shops.

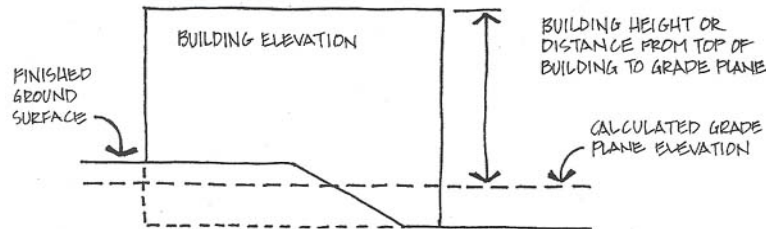
Golf course means the use of a tract of land laid out with at least nine (9) holes for playing a game of golf and improved with tees, greens, fairways and hazards. A clubhouse, maintenance facility and shelters may be permitted as accessory uses.

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Governmental facilities mean a use or buildings owned or occupied by federal, state and local governments.

Grade, Finished means the elevation of the finished surface of the ground adjacent to the building or structure after final grading.

Grade plane means a reference plane representing the average of the finished ground level adjoining the building at the exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet (1829 mm) from the building, between the building and a point six (6) feet (1,829 mm) from the building.



Greenhouse or greenhouse nursery means a use that is devoted to the protection and/or cultivation of horticultural and floricultural products.

Group day care. See *Day care, group*.

Group home, adult means a use where five (5) or more adults, who are not related to the operator or administrator and who do not require care above intermediate level nursing care, reside and receive care, treatment or services that are above the level of room and board but that include no more than three (3) hours of nursing care per week per resident.

Group home for children means any facility operated by a person or entity required to be licensed by the department under W.S.A. §48.625, for the care and maintenance of five (5) to eight (8) children, as provided in W.S.A. §48.625. (Considered a community living arrangement) A group home for children is subject to the standards listed in §23-52 of this ordinance.

Group housing means a not for profit use where rooms or suites of rooms occupied by individuals not living together as a single family or families, may include common cooking facilities and resident management, but not group care providers. This category includes fraternities, sororities and dormitories; it does not include convalescent homes or community living arrangements.

Guardrail means a protective railing, other than a fence, placed along a parking lot, driveway or roadway which serves to provide protection from or to vehicular traffic.

H

Harvesting of wild crops means the use of land, in its natural state, to gather or collect naturally grown berries, fruits, nuts, mushrooms and seeds.

Hearing, informal means a hearing on a matter contained within this chapter that is not required by Wisconsin Statutes.

Hazardous waste. See *Toxic Waste*.

Hearing, public means the official hearing on a matter contained within this chapter that is required by Wisconsin Statutes and subject to legal notice requirements.

Height of towers means the vertical distance of the broadcast tower, mobile service support structure (cell tower) or other similar structure. Measurement of height shall include antenna, base pad and other appurtenances and shall be measured from finished grade below the center of the base of said tower to the highest point of the tower even if said highest point is an antenna or piece of equipment attached thereto.

Helicopter landing pad means an area designed to be used for the landing and/or takeoff of one (1) helicopter, the temporary parking of one (1) helicopter, and other facilities as may be required by federal and state regulations, but not including operations facilities such as maintenance, storage, fueling or terminals.

Historic Preservation

- (1) **Archeological significance** means subsurface or aboveground structural remains, artifacts or other natural or cultural features of past human life or activities and may yield additional information about prehistory or history.
- (2) **Architectural feature** means ornamentation or decorative features attached to or protruding from the outer surface of a local historic structure, local historic site or contributing structure, including but not limited to gable cornices, columns, decorative ornaments, and trim.
- (3) **Architectural significance** means importance of a building or structure based upon the distinctive characteristics of a time period, type or method of construction.
- (4) **Certificate of Appropriateness or COA** means the certificate issued by the Historic Preservation Commission approving a historic preservation alteration, or demolition of a local historic structure, local historic site, or a contributing structure located within a local historic district.
- (5) **Contributing structure** means a building, object or site located within the boundaries of a local historic district and identified as contributing to the historical, cultural, archeological or architectural significance of the local historic district.
- (6) **Cultural significance** means the importance of an improvement parcel or natural area, including any object, building, improvement or structure therein, associated with an event, or series of events, significant to the cultural traditions of Appleton, the state or the nation.
- (7) **Demolition** means razing, destroying, dismantling or in any manner causing partial destruction or total destruction of a local historic structure, local historic site, contributing structure or any improvement.
- (8) **Designation criteria** means a set of established standards by which the local historical significance of an improvement parcel or natural area, including any object, building, improvement or structure is judged and eligibility for designation is determined pursuant to the provisions of this section.
- (9) **Destruction, partial** means any act or process that razes, destroys, or dismantles less than seventy-five percent (75%) of any exterior feature, exterior wall of a local historic structure, local historic site or contributing structure.
- (10) **Destruction, total** means any act or process that razes, destroys, or dismantles seventy-five percent (75%) or more of any exterior feature, exterior wall of a local historic structure, local site or contributing structure.
- (11) **Director** means the City of Appleton Director of Community Development Department or designee.
- (12) **Economic hardship** means in the content of Section 23-651, economic hardship occurs when a property owner is unable to sell a local historic structure, local historic site or contributing structure solely because of the designation. The property owner or owner's agent must provide a written statement for the potential

ZONING

purchaser stating that they are of the requirement imposed by this section and are unwilling to make an offer on the property because of the local historic designation.

- (13) **Economically feasible** means that the costs of the renovation/restoration of a local historic structure, local historic site or contributing structure when combined with the cost of the land, do not exceed the fair market value of the property after the renovation/restoration of the local historic structure, local historic site or contributing structure has been completed.
- (14) **Event** means a specific occasion, circumstance, or activity that occurred on a property marking an important moment in Appleton's, the state's or the nation's prehistory or history or a historic trend that made a significant contribution to the development of Appleton, the state or the nation.
- (15) **Exterior feature** means the general design and arrangement of the outer surfaces of a local historic structure, local historic site or contributing structure, including the kind and texture of the building material, and the type and style of all windows, doors, and other architectural features.
- (16) **Historic district, local** means an area of two (2) or more improvement parcels that together possess significant, common characteristics that are historically, aesthetically or architecturally significant to Appleton, the state or the nation and which has been designated as a local historic district pursuant to the provisions of this section.
- (17) **Historic district plan, local** means a document that identifies and defines appropriate strategies for the protection of the architectural, historical and cultural features of a local historic district.
- (18) **Historic preservation alteration** means those outer surface alterations made to a local historic structure, local historic site or contributing structure, such as:
 - a. Installation or alteration of windows, doors or other architectural features where the original opening is proposed to be enlarged, reduced, or altered.
 - b. Relocation.
 - c. Reconstruction.
 - d. Rehabilitation.
 - e. New construction of any improvement or additions to a local historic structure, local historic site or contributing structure.
- (19) **Historic Preservation Commission** means the Commission created under this section.
- (20) **Historic preservation repair** means the act or process of applying measures, except for painting, necessary to prolong or replace deteriorated, decayed or damaged existing exterior features of a local historic structure, local historic site or contributing structure or any part thereof by using materials that are identical in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to original materials. The term "historic preservation repair" includes the installation of roof singles, windows, doors or other architectural features where the original opening will not be enlarged, reduced or altered.
- (21) **Historic site, local** means any parcel of land whose historic significance is due to a substantial value in tracing the history or prehistory of humanity or upon which a historic event has occurred and which has been designated as a local historic site pursuant to the provisions of this section, or an improvement parcel, or part thereof, on which is situated a local historic structure and any abutting improvement parcel, or part thereof, used as, and constituting part of, the premises on which the local historic structure is situated.

- (22) **Historic structure, local** means any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of Appleton, the state or the nation and which has been designated as a local historic structure pursuant to the provisions of this section.
- (23) **Historical significance** means the importance for which an improvement parcel or natural area, including any object, building, improvement or structure has been evaluated and found to meet the designation criteria.
- (24) **Identical (materials)** means for the purpose of Section 23-651, means exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc.
- (25) **Important person or persons** means an individual or a group of individuals who has made significant contributions to Appleton, the state or the nation, including but not limited to medicine, politics, commerce, history, engineering and/or architecture.
- (26) **Improvement** means any building, structure, or object constituting a physical betterment of real property, or any part of such betterment.
- (27) **Improvement parcel** means a lot or parcel of land together with the buildings and structures thereon, which has been assigned a tax parcel number by the City Assessor's Office. The term "improvement parcel" shall also include any unimproved area of land which has been assigned a tax parcel number by the City Assessor's Office.
- (28) **Member** shall mean a regular or alternate member of the Historic Preservation Commission.
- (29) **Natural area** as defined by Section 23.27 Wisconsin State Statutes.
- (30) **Object** means a term used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, moveable, an object is associated with a specific setting or environment. Examples of objects include boundary markers, fountains, monuments, mileposts, sculptures, murals, statues, carvings, or stained glass,
- (31) **Owner's agent** means a mortgagee, buyer in possession, receiver, executor, or trustee in control of a nominated or designated local historic site, local historic structure or contributing structure.
- (32) **Reconstruction** means the act or process of depicting, by means of new construction, the exterior features and detailing of a local historic structure, local historic site or contributing structure or any part thereof that no longer exists for the purpose of replicating its appearance at a specific period of time and in its historic location.
- (33) **Rehabilitation** means the act or process of making possible a code compliant use for a local historic structure, local historic site or contributing structure through repair, alterations, and additions while preserving those exterior features which convey its historic, architectural or cultural significance.
- (34) **Relocation** means moving a local historic structure, local historic site or contributing structure from its original location.
- (35) **Similar (materials)** means for the purpose of Section 23-651, means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. or alike; having a general resemblance, although allowing for some degree of difference. This term is to be interpreted to mean that one thing has a resemblance in many respects, nearly corresponds, in somewhat like, or has a general likeness to some other thing but not identical in form and substance.

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(36) **Work** means demolition or historic preservation alteration or repair.
(Ord 99-12, §1, 10-9-12; Ord 87-19, §1, 9-10-19)

Home Garden means an accessory use of land or roof top involving the growing and harvesting of fruits, vegetables, flowers, and other plant and herb products primarily for the consumption or enjoyment of the owner or tenant of such property.
(Ord 45-12, §1, 6-6-12)

Home occupation means the production of goods and/or services within a dwelling unit, attached garage or detached garage by a member(s) of the family residing in the residence, provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and which does not change the residential character of the neighborhood.
(Ord 28-11, §1, 1-15-11)

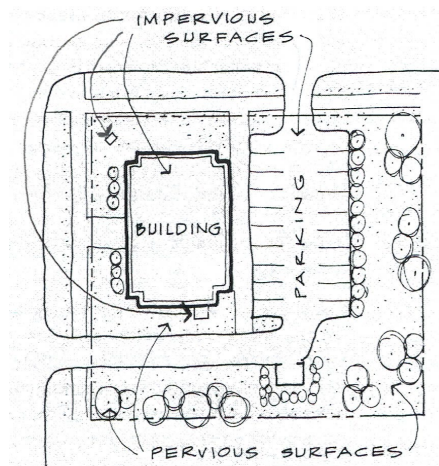
Hospital means a use providing inpatient and outpatient medical and surgical care, diagnosis and treatment for sick or injured persons including beds for overnight care, laboratories, training facilities, and/or other necessary accessory facilities.

Hotel or motel means a use offering lodging accommodations, in individual rooms or suites, on a daily rate to the general public and which may include additional accessory services such as restaurants, meeting rooms and personal fitness facilities.

Human habitation means the use of a vehicle for dwelling. Evidence of human habitation shall include activities such as sleeping, setting up housekeeping or cooking and/or any other activity where it reasonably appears, in light of all the circumstances, that a person or persons is using the vehicle as a living accommodation. The use of a vehicle for six or more consecutive hours for eating, resting, recreating and/or sleeping shall per se constitute “human habitation” for purposes of this chapter.

I

Impervious surface means an area that releases, as runoff, all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots, and streets are examples of surfaces that are typically impervious.



Impervious surface ratio means the measure of intensity of land use, determined by dividing the total of all impervious surfaces on a site by the gross area of the site.

Indoor kennel means any use where any person engages in the business of boarding, grooming, breeding, buying, letting for hire, training for a fee or selling of small animals in a completely enclosed building or structure.

Industrial use means a use at a scale greater than commercial uses that is engaged in custom, light and heavy manufacturing, production, processing, fabrication, assembly, packaging of finished goods, warehousing, wholesaling, and distribution of finished goods.

J

No Definitions.

K

Kennel. See ***Indoor kennel*** or ***Outdoor kennel***.

L

Landscape business means a use engaged in the decorative and functional alteration, planting and maintenance of grounds. Such a use may engage in the installation and construction of such alterations and plantings and may store the necessary equipment and materials to perform such work.

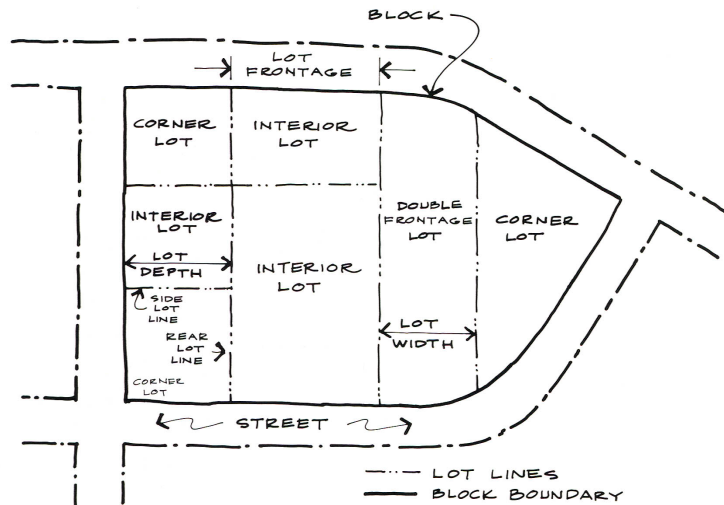
Landscaping means alteration of the natural terrain, including the planting of trees, grass, shrubs and ground cover.

Loading space means that portion of a lot or space accessible from a street, alley or way, in or outside of a building, designed to serve the purpose of loading or unloading for all types of vehicles.

Lot means a tract of land, designated by metes and bounds, land survey, minor land division or plat, and recorded in the office of the county register of deeds.

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ZONING



Lot area means any area within a lot, including land over which easements have been granted, but not including any land within the limits of a street upon which such lot abuts, even if fee title to such street is held by the owner of the lot.

Lot area per unit means the lot area required by this chapter to be provided for each dwelling unit.

Lot, corner means a lot situated at the junction of, and abutting on, two (2) or more intersecting streets.

Lot coverage. See *Impervious surface*.

Lot depth means the horizontal distance between the front lot line and the rear lot line. Where these lot lines are not parallel, the lot depth shall be the length of a line joining the midpoints of the front and rear lot lines.

Lot, double frontage means an interior lot having frontage on the front and the rear of the lot.

Lot, interior means a lot other than a corner lot.

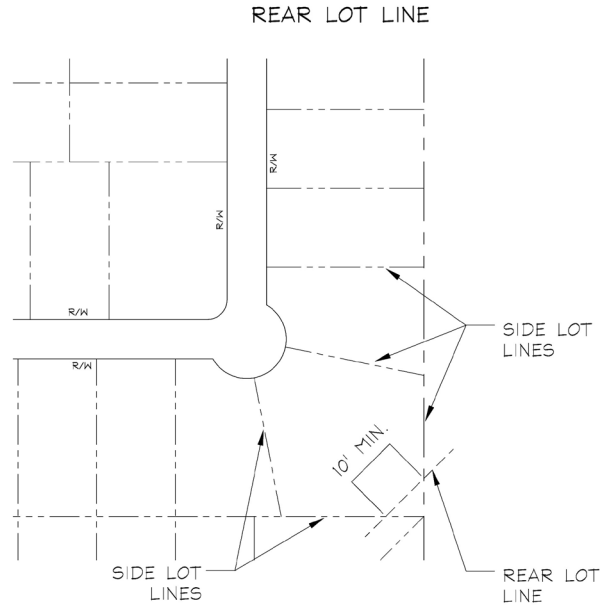
Lot, land-locked means a lot not fronting or abutting a public street and where access to the public street is limited to a narrow ingress/egress easement.

Lot line means a boundary line dividing one (1) lot from another lot or from a street or alley.

Lot line, front means that boundary of a lot which abuts a dedicated public street or private street. If a lot abuts two (2) or more dedicated public streets or two (2) or more private streets, all sides facing a dedicated public street or private street shall be considered the front. In the case of a land-locked lot, the front lot line shall be that lot line that faces the access to the lot.

Lot line, rear means that boundary of a lot which is opposite the front lot line with the exception of corner lots, in which case, the lot owner will have a choice to designate the rear and side yard. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be defined as a line ten (10) feet in length within the lots, parallel to, and at the maximum distance from the front lot line.

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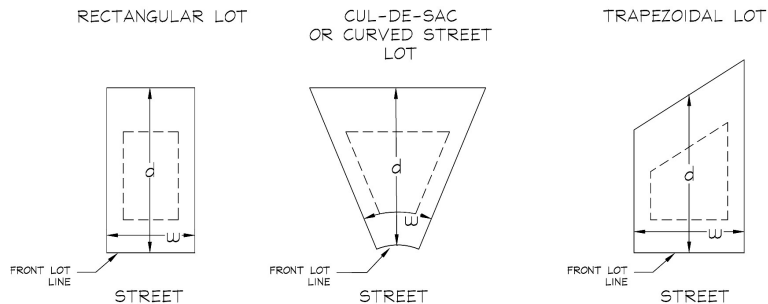


Lot line, side means any boundary of a lot that is not a front lot line or a rear lot line.

Lot of record means a lot which is part of a subdivision, the map of which has been recorded in the office of the county register of deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the county register of deeds.

Lot depth means the average distance measured between the front lot line to the rear lot line.

EXAMPLES OF LOT WIDTH AND LOT DEPTH



LEGEND

w	LOT WIDTH
d	LOT DEPTH
[]	MINIMUM YARD SETBACKS

Lot, vacant means a lot upon which no buildings or structures exists.

Lot width means the maximum horizontal distance between the side lot lines of a lot measured along the front lot line. On a cul-de-sac, or curved street, the front setback line shall be used to determine minimum lot width.

M

Management of forestry and fish means the protection and preservation of land, in its natural state, for woodlands, native species of woody plant material and watercourses, lakes and ponds for fish.

Manufacturing, custom means a use primarily engaged in the limited on-site production of goods by hand manufacturing which involves only the use of hand tools or domestic mechanical equipment that does not exceed two (2) horsepower each or a single kiln not exceeding eight (8) cubic feet in volume and the incidental direct sale to consumers. Typical custom manufacturing include: custom furniture, ceramic studios, glass blowing, candle making, custom jewelry, stained and leaded glass, woodworking shops, custom textile manufacturing and craft shops.

Manufacturing, heavy means a use engaged in the processing or production of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions which would generate objectionable or hazardous elements such as: heat, smoke, noise, odor, vibration, water pollution, electromagnetic disturbances, radiation or dust. Heavy manufacturing uses may include uses such as a metal foundry, metal stamping plant, electrical generation plants, extraction of mineral resources in an open mine, concrete processing facility, paper manufacturing facility from raw materials, asphalt manufacturing facility, petroleum refining, private garbage incineration and animal processing and rendering plants.

Manufacturing, light means a use engaged in the processing, repair, production, assembling, altering, converting, fabricating, finishing, processing or treatment of a product utilizing a relatively clean and quiet process which does not include or generate objectionable or hazardous elements such as smoke, noise, odor, vibration, water pollution or dust and which is operating and storing products and materials in a completely enclosed structure. Light manufacturing uses may include uses such as: assembly or maintenance of machinery, manufacture or assembly of cloth, wire or rubber products in a completely enclosed building, chemical mixing or storage in a completely enclosed building, microchip manufacturing, assembly of precision instruments, assembly of electronic devices, assembly of medical devices, completely enclosed machine shops, cabinet making facilities and silk screening facilities.

Marina or boat landing means use providing docking and landing, moorage space, and related activities limited to the provisioning or minor repair of pleasure boats and yachts, and accessory facilities including gasoline sales and personal services.

Market garden. See Urban farm.

Maximum extent practicable means no feasible or practical alternative exists on the site, as determined by the Community Development Director, and all possible efforts to comply with the standards of this chapter and minimize potential visual, heat, glare, harmful or adverse impacts have been undertaken by the property owner and/or applicant.

Metes and bounds description means a description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by described lines or portions thereof.

Microbrewery/Brewpub means a use which manufactures, bottles and packages a total of not more than 10,000 barrels or 310,000 U.S. gallons of fermented malt beverages per calendar year and may or may not operate restaurant on the premises including storage and distribution of fermented malt beverages that have been manufactured on the premises.

Mobile home means a unit designed to be towed or transported and used as a residential dwelling, but does not include a unit used primarily for camping, touring or recreational purposes

APPLETON CODE

Mobile home park means any tract of land containing two (2) or more sites for the placement of mobile homes.

Mobile home sales lot means a tract of land where mobile homes are displayed and sold including all accessory structures for office use.

Motel. See **Hotel**.

Multi-tenant building means any building or structure that is occupied by two (2) or more owners, renters or land uses, which is managed as a single property.

Museum means a use serving as a repository for a collection of natural, scientific, or literary curiosities, works of art, or other objects of interest, that are arranged, intended and designed to be used by members of the public for viewing, with or without an admission charge.

N

Nonconforming lot means a lot of record that does not comply with the lot width or lot area requirements of this chapter.

Nonconforming building or structure means a dwelling, building or structure that existed lawfully before the current zoning ordinance was enacted, but does not conform with one or more of the development regulations in the current zoning ordinance.

Nonconforming use means a use of land, a dwelling, a building or a structure that existed before the current zoning ordinance was enacted or amended, but does not conform with the use restrictions in the current ordinance.

Nursery, orchards or tree farm means the use of land for the establishment, care and harvesting of trees, shrubs, plants or fruit from fruit bearing trees.

Nursing or convalescent home means a home in which three (3) or more persons not of the immediate family are received, kept or provided with food, shelter or care for compensation, and by reason of chronic illness or infirmity are unable to care for themselves. A hospital, clinic or similar institution shall not be construed to be included in this definition.

O

Occupancy means to reside in as an owner or tenant on a permanent or temporary basis.

Off-street loading area means an area or space designated for the loading and/or unloading of goods into or out of motor vehicles, including loading docks.

Off-street parking space means a hard surfaced area for one (1) motor vehicle with room to open doors on both sides of the motor vehicle that is directly accessible to a parking aisle if located in an off-street parking lot or area and having access to a driveway, street, alley or private street.

Off-street parking lot or area means a structure and use involving an open, hard surfaced area which contains off-street parking spaces, parking aisles and driveways for the maneuvering and parking of motor vehicles which is not located in a street or alley right-of-way.

ZONING

Off-street parking lot and loading area construction means soil, gravel or bedrock being excavated or modified to allow for the construction of an off street parking lot and loading area, or the expansion of an existing off-street parking lot and/or loading area.

Off-street parking lot and loading area maintenance means removal and replacement of existing curbing or wheel stops located in existing off-street parking lots or loading areas. Line re-striping, crack sealing, seal coating existing off-street parking lots or loading areas, including patching which means removal and replacement of fifteen percent (15%) or less than the total square foot area of the existing surface and base course with a new surface and base course.

Off street parking lot and loading area reconstruction means the existing surface course and base course are removed to allow for the installation, grading and compaction of a new base and surface course with no expansion of the off street parking lot and/or loading area, including patching which means removal and replacement of greater than fifteen percent (15%) of the total square foot area of the existing surface and base course with a new surface and base course with no expansion of the off street parking lot and/or loading area.

Off street parking lot and loading area rehabilitation means the following:

(a) The existing surface course is removed above the existing base course and repaved with a new surface course, including the addition of base course to existing base course, the re-grading and/or compaction of the base course with no expansion of the off street parking lot and/or loading area; and

(b) The existing surface course is pulverized, graded and/or compacted on site with a new surface course being added on top of the base course with no expansion of the off street parking lot and/or loading area.

Off street parking lot and loading area resurfacing means removing a portion of the surface course but leaving at least one inch thickness of undisturbed surface course in place and adding a new layer of surface course over the undisturbed surface course with no expansion of the off-street parking lot and/or loading area.

Off street parking lot and loading area overlay means adding a new layer of surface course over the existing surface course with no expansion of the off street parking lot and/or loading area.

Office means a use in a building or portion of a building wherein services are performed involving predominately administrative, professional or clerical operations.

Opaque fence means a solid (non-spaced) fence, alternating board on board fence, wall or exterior building wall with a gate that provides a solid or opaque barrier that blocks the transmission of light and visibility through ninety (90) percent or more of its surface area. Chain link fences and gates with slats are not considered to be opaque fences. A fence used in combination with evergreens that provide the equivalent screening as a required opaque fence may also be used to satisfy this definition.

Open space means a natural or manmade landscaped area not occupied by any structures, buildings or impervious surfaces.

Orchards, tree farms and nurseries. See *Nursery, orchards or tree farm.*

Ordering station, drive through means a remote station from the building and along the vehicular drive-thru land from which the order is taken.

Ordinary high water mark means the line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of the soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Ordinary maintenance and repairs, building or structure means internal and external painting, decorating or the repair or replacement of doors, windows, nonbearing walls, fixtures, heating components, wiring, plumbing, siding, or roof shingles of an existing building or structure, not including off-street parking lots and loading areas.

APPLETON CODE

Outdoor commercial entertainment means a use involving entertainment or recreation services offered outside of an enclosed building that is open to the general public for a fee. Examples include: driving ranges, miniature golf courses, Go-Kart tracks, volleyball courts, water parks, skating rinks, batting cages and amusement parks.

Outdoor display means an area of designated size located outside of an enclosed permanent building or structure used in conjunction with the a business that is occupying a permanent building or structure for the display of merchandise, goods, wares or tangible property normally sold, rented or leased within the business on the lot where the merchandise is sold, rented or leased.

Outdoor kennel means a use, outside of any building or completely enclosed structure, where any person engages in the business of boarding, grooming, breeding, buying, letting for hire, training for a fee or selling of small animals.

Outdoor sales area means the area of designated size located outside of an enclosed permanent building or structure where merchandise, goods, wares, articles or things are kept, displayed or sold.

Outdoor storage means an area of designated size located outside of an enclosed permanent building or structure used in conjunction with the business that is occupying a permanent building or structure on the same lot for the keeping of personal or business property, goods, wares, or merchandise that are not located in that specific area for customer viewing or immediate sale, in the same place for a period of more than seventy-two (72) hours.

Overlay zoning district means a district established to prescribe special regulations to be applied to a described area in combination with the underlying zoning district.

Owner means a person, individual firm, association, syndicate or partnership that appears on the recorded deed of the lot.

P

Painting/Craft Studio means a use that is primarily engaged in the business of providing to customers instruction in the art of painting and/or making crafts and that may offer customers the opportunity to purchase food, alcoholic and/or non-alcoholic beverages for consumption while they paint and/or make crafts.
(Ord 144-24, §1, 11-6-24)

Parcel. See lot.

Park or playground, private means the use of any land or open space, owned or controlled by a private or for profit entity, for passive or active recreation purposes.

Park or playground, public means the use of any land or open space, owned or controlled by a governmental entity, for passive or active recreation purposes.

Parking means an area that provides the required parking for a use in accordance with Chapter 23 Zoning of the City of Appleton Municipal Code. The following definitions relating to parking are also provided:

(a) **Bicycle parking space** means an area designated and equipped for the purpose of parking and securing a bicycle.

(b) **Parking** means the act or practice of temporarily leaving any vehicle or maneuvering any vehicle into a certain location or outdoors on a residential driveway, including a parking pad.

(c) **Parking aisle** means that area adjacent to an off-street parking space which permits maneuvering of the vehicles entering and leaving an off-street parking space and having access to a driveway, street, alley or private street.

ZONING

(d) **Parking pad** means a hard surfaced area upon a property which is not connected to a driveway and located in a side and/or rear yard which is intended for parking vehicles and recreational vehicles.

(e) **Parking space** means a hard surfaced area (e.g., asphalt, concrete or brick pavers) for one (1) vehicle with room to open doors on both sides of the vehicle that is directly accessible to an access aisle if located in a parking lot or otherwise accessible to a driveway, residential driveway, street or alley.

(f) **Stacking space** means a hard surfaced area (e.g., asphalt, concrete or brick pavers) designated as an area for temporary queuing of vehicles.

(g) **Stacked parking means** a hard surfaced area (e.g., asphalt, concrete or brick pavers for the parking of more than one (1) vehicle in a parallel line, one behind the other on a residential driveway.

(h) **Side and Rear yard parking area** means an outdoor off-street parking area designed for vehicle parking and maneuvering which is located in the side and rear yard only.

(i) **Off-street parking space** means a hard surfaced area for one (1) vehicle with room to open doors on both sides of the vehicle that is directly accessible to a parking aisle if located in an off-street parking lot or area and having access to a driveway, street, alley or private street.

(j) **Off-street parking lot or area** means a structure and use involving an open, hard surfaced area which contains off-street parking spaces, parking aisles and driveways for the maneuvering and parking of vehicles which is not located in a street or alley right-of-way. Also means parking lot.

(Ord 144-24, §1, 11-6-24)

Parking aisle means that area adjacent to an off-street parking space which permits maneuvering of the motor vehicles entering and leaving a off-street parking space and having access to a driveway, street, alley or private street.

Parking facility underground means off-street parking spaces that is located below the finished grade of a building or located beneath a building, except for driveways. Parking ramps shall not be considered underground parking facilities.

Parking ramp means a use involving a building or structure, or part thereof, composed of more than one (1) level, used or designed to be used for the parking of motor vehicles.

Pedestrian way means a use of land to be used by pedestrians.

Perimeter means the outer boundaries or borders of a lot, building, structure, use, or area.

Personal services mean any use which caters to customers' needs, and which may include the incidental sale of products. Personal services may include barbershops, beauty shops, copying and duplicating services, dry cleaners, health clubs, pet grooming and tanning spas. Personal services shall not include adult entertainment or sexually oriented businesses.

Personal storage facility (self storage/mini-warehouse) means the primary use of a building containing individual, compartmentalized and controlled access spaces, rooms or lockers that are leased, rented or owned by different individuals for the storage of individual possessions or personal property, but may include outdoor storage areas for recreational vehicles as an accessory use.

Pervious surface means an area that releases, as runoff, a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or similar vegetated areas are examples of surfaces that are typically pervious.

Place of worship means a use involving a building, together with its accessory structures and uses, where persons regularly assemble for religious worship and which building, together with its accessory structures and uses, is maintained and controlled by a religious body organized to sustain public worship.

Plan, comprehensive. See *Comprehensive plan*.

APPLETON CODE

Plan, development means a report, in map and text form, including depiction of the location, purpose, type of land use, circulation pattern, primary relationship between site elements and between the proposed development and surrounding development.

Plan, implementation means the final, detailed plan for a planned development (PD) that is filed following Common Council approval.

Plan, site means a map or graphics, prepared to scale, depicting the development of a tract of land, including the location and relationship of the structures, streets, driveways, recreation areas, parking areas, lighting, utilities, drainage, landscaping, existing and proposed grading, walkways and other site development information as related to a proposed development.

Planned development (PD) means a parcel of land or contiguous parcels of land controlled by a single landowner or by a group of landowners in common agreement as to control, to be developed as a single entity, the environment of which is compatible with adjacent parcels, and the intent of the zoning district or districts in which it is located.

Plat means a minor land division (Certified Survey Map), map, graphics or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record title. The plat is a recorded, legal document and must conform to all Wisconsin Statutes.

Portable storage unit means any container designed for temporary storage of property related to the owners or occupants of property and which is delivered and removed from the property.

Printing means a use for the custom reproduction of written or graphic materials on a custom order basis for individuals or businesses. Typical processes may include, but are not limited to: photocopying, blueprint, in-house computer rental and facsimile sending and receiving.

Prison or jail means a facility used for the incarceration of individuals who have violated federal, state or local laws.

Private drive means a roadway, not maintained by the City, providing access from a public street to a parcel or building.

Professional service means the use of office and other related spaces for such services as are provided by medical practitioners not intended for overnight care, dentists, attorneys, architects, real estate agents, engineers, funeral homes, banks, credit unions, savings and loan institutions, lending establishments and mortgage companies and other similar professions.

Proof means the ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percentage of ethyl alcohol by volume.

Proof gallon means a gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof. Proof is a method of measuring the alcohol content of spirits (intoxicating liquor). You calculate the proof of a spirits product by multiplying the percent of alcohol by volume by two (2). For example, a spirits (intoxicating liquor) product that has a 40% alcohol content by volume is 80 proof [40 multiplied by 2 = 80]. Converting U.S. gallons into proof gallons:

1. Multiply U.S. gallons by the percent of alcohol by volume.
2. Multiply by 2.
3. Divide by 100.

Sample calculation:

1. 100 U.S. gallons x 40% alcohol by volume = 4000
2. 4000 x 2 = 8000
3. 8000/100 = 80 proof gallons

ZONING

Property line means the legal boundaries of a parcel of property that may or may not coincide with platted lot lines or street right-of-way.

Public facility means a building and/or land owned and controlled and/or in which the use is operated by the City or other government agency, including fire stations, City Hall, public works and park facilities, library and the like.

Public institutional use means a use that provides a public service to the general public such as or similar as places of worship, libraries, educational institutions, hospitals, governmental facilities, land use for public purposes.

Public land means land owned or operated by municipal, school district, county, state or other governmental unit.

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. This definition also includes, terraces and driveway aprons.

Q

No Definitions.

R

Radio and television broadcasting stations means a use engaged in transmitting verbal and visual programs to the public and that consists of a studio, transmitter, antennas and towers.

Recreation facility, commercial. See *Outdoor commercial entertainment*.

Recreation facility, non-profit means any land or facility operated by a non-profit organization and which is open to the public or members of the non-profit organization, that may include, but not be limited to, athletic fields, picnic areas and bike/hike trails.

Recreational vehicle means a “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.
(Ord 144-24, §1, 11-6-24)

Recycling and waste recovery center means a use in which recoverable resources such as newspapers, magazines, books and other paper products, glass, metal cans and other products are recycled, reprocessed and treated to return such products to a condition in which they may be used again for production.

Recycling center means a use whose purpose is to collect and process recyclable materials and transfer the processed materials off site, not including a junkyard. Processing shall be limited to the preparation of material for efficient shipment by such means as compacting, flattening, crushing, mechanical sorting, cleaning and loading, all done within the confines of a building. For the purposes of this zoning ordinance, recyclable material collection shall be limited to aluminum, glass, paper or plastic.

Recycling collection point means an incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items shall be allowed.

Refuse container means moveable receptacle for collecting solid waste produced on-site for temporary storage until transferred for final disposal, including “dumpsters” or similar receptacles and bins.

Registered historic place open to the public means any use or structure that meets one (1) of the following criteria:

(a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior, or directly by the Secretary of the Interior in states without approved programs.

Replacement means a construction process of completely removing all or a portion of an existing building and/or structure, so as to replace it with a new building or structure.

Residential care apartment complex means a place where five (5) or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a kitchen, including a stove, and individual bathroom, sleeping and living areas, and that provides, to a person who resides in the place, not more than twenty-eight (28) hours per week of services that are supportive, personal and nursing services. "Residential care apartment complex" does not include a nursing home or a community-based residential facility, but may be physically part of a structure that is a nursing home or community-based residential facility.

Residential care center for children and youth means a facility operated by a child welfare agency licensed under W.S.A. §48.60, for the care and maintenance of children residing in that facility. (Considered a community living arrangement) A residential care center for children and youth is subject to the standards listed in §23-52 of this ordinance.

Residential use means the occupancy of a dwelling or dwelling unit by a family or congregate living arrangements.

Research laboratory or testing facility means a use in which scientific research, investigation, testing or experimentation is conducted, but not including the manufacturing or sale of products, except as incidental and accessory to the main purpose of the facility.

Residence. See **Dwelling**.

Restoration means a construction process of repairing or renovating all or a portion of an existing building and/or structure, so as to restore it to its former or original appearance or condition.

Retail food establishment means an establishment required to be licensed under Wisconsin Statutes §97.30, and all other commercial enterprises, fixed or mobile, where food is processed or sold or offered for sale at retail. The term shall also include all areas and facilities of such establishments used in conjunction therewith and all vehicles and equipment utilized in conjunction therewith. It includes retail grocery stores, meat markets, poultry markets, fish markets, delicatessens, bakeries, confectionaries, ice cream shops, cheese stores, convenience marts, milk cases, spice and herb shops, temporary retail food establishments and all other establishments where food is processed or sold or offered for sale at retail.

Restaurant means a use involving a business establishment, with or without table service, within which food is prepared and offered for sale and consumption on or off the premises, to the customer, in a ready to consume state. (Ord 144-24, §1, 11-6-24)

Restaurant, fast food means a use involving a business establishment whose principal business is the sale of previously prepared food, in disposable containers, directly to the consumer in a ready to consume state for consumption either within the restaurant or off-premises.

ZONING

Retail business means a use that provides goods, wares, merchandise and/or services directly to the consumer, where such goods are available for immediate purchase.

Rummage sale means the sale of personal household goods on a property customarily used as a residence.

S

Sale of seasonal agricultural products, outdoor means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant displays and sells products obtained through farming or agricultural activities such as pumpkins, fruits and vegetable of all kinds. For the purpose of definition, processed or prepared food products of any kind shall not be considered as seasonal agricultural products.

Salvage yard or junk facility means a use including land, buildings or structures where junk, waste, discarded, salvaged or similar materials such as old metals, wood, lumber, glass, paper, rags, cloth, cordage, barrels, containers, etc., are brought, bought, sold, exchanged, baled, packed, stored or handled, including used lumber and building materials, equipment, wrecking yards and the like. This definition shall not include automobile salvage or wrecking yards or pawnshops and establishments for the sale, storage, or purchase of secondhand vehicles, clothing, furniture, appliances or similar household goods, all of which shall be useable, nor shall it apply to the processing of used, discarded or salvageable materials incidental to manufacturing activity on the same site or to recycling and waste recovery centers.

Satellite dish means a dish shaped antenna designed to receive radio or television broadcasts relayed by microwave signals from earth orbiting communication satellites.

Screening means a method of visually shielding or obscuring an adjacent building, structure, use from another by fencing, walls, berms or densely planted vegetation.

Senior care facility. An establishment that provides medical care or housing exclusively to the elderly. A senior care facility shall include, but not be limited to, nursing homes, independent care facilities, elderly condominiums and elderly apartments.

Service structure means an accessory structure or equipment that provides support to the principal use or building on the lot. Service structures include, but are not limited to: propane tanks, trash and dumpster enclosures, electrical transformer boxes and above ground utility vaults.

Setback means the required distance the exterior wall of a structure must be located from a lot line, easement, right-of-way, adjacent building or other feature as indicated in this chapter.

Sexually-oriented business.

Booths/Cubicles/Rooms/Compartments/Stalls. Enclosures that are specifically offered to the public or member of a sexually-oriented establishment for hire or for a fee as part of a business operated on the premise which offers as part of its business the entertainment to be viewed within the enclosure. This shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure. However, “booth”, “cubicle”, “room”, “compartment”, or “stall” does not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, are not open to any person other than employees nor shall this definition apply to hotels, motels or similar establishments licensed by the State of Wisconsin pursuant to Wisconsin law.

Operator. Any person, partnership or corporation operating, conducting, maintaining or owning any sexually-oriented establishment.

Predominant. Fifty-one percent (51%) or more of a business' stock in trade, display space, gross floor space or retail sales in any one (1) month during the license year.

Sexually explicit material. Any picture, photograph, drawing, sculpture, motion picture, film or other visual representation of an image depicting uncovered or less than opaquely covered, post pubertal human genitals or pubic areas in a lewd fashion, or depicting human sexual intercourse, human or animal masturbation, bestiality, oral intercourse, anal intercourse, human-animal intercourse, excretory functions, homosexual acts, direct physical stimulation or touching of unclothed genitals or pubic areas of the human male or female, flagellation or torture by or upon a person who is nude or clad in revealing or bizarre costumes in the context of a sexual relationship or sexual stimulation. The material shall be judged without regard to any covering, which may be affixed or printed over the material in order to obscure genital areas in a depiction otherwise falling within the definition of these subsections. Works of art or of anthropological significance are not included within the definition of this paragraph.

Sexually-oriented bookstore. An establishment which includes, but is not limited to, booths, cubicles, rooms or stalls for the presentation of sexually-oriented entertainment, including sexually-oriented films, movies or live performances for observation by patrons therein, or which, as part of its regular and predominant course of conduct, offers for sale, rent, trade, lease, inspection or viewing, books, films, video cassettes, magazines or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.

Sexually-oriented cabaret. A building or structure which features topless dancers, strippers, male or female impersonators, or similar entertainers that display specified anatomical areas or engage in specified sexual activities as defined in this section.

Sexually-oriented entertainment. Any exhibition of any motion pictures, live performances, displays or dances of any type, which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities, or exhibition and viewing of specified anatomical areas, appearing unclothed, or the removal of articles of clothing, to reveal specified anatomical areas.

Sexually-oriented establishment. Any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures; or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, whether or not such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect. An adult-oriented establishment includes, but is not limited to, adult bookstores and adult motion picture theaters.

Sexually-oriented motion picture theater. An establishment which is significantly or substantially used for presenting motion picture films, video cassettes, cable television or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Specified anatomical areas:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola;
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified sexual activities. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(Ord 201-11, §1, 9-27-11)

Shelter facility means a temporary place of lodging for homeless individuals or families.

ZONING

Shopping center means a use involving a group of retail business establishments and/or service uses on a single site, under one (1) ownership, which leases spaces for separate establishments and which has common parking spaces and no lot lines between establishments.

Showroom means an indoor use or the indoor portion of a building or use where merchandise is on display for consumer viewing.

Sign means any device, fixture, placard, or structure that uses any writing, representation, emblem, logo, symbol, or other display illuminated or non-illuminated to advertise, announce the purpose of, or identify the purpose of a person or entity to attract attention, or to communicate information of any kind to the public, visible from any public place. Streamers, pennants, balloons and inflatable figures are not considered signs. For the purpose of removal, signs shall also include all sign structures as well as the sign itself.

Site means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

Small wind energy systems.

- (1) "Meteorological tower" (met tower) is defined to include the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- (2) "Owner" shall mean the individual or entity that intends to own and operate the small wind energy system in accordance with this ordinance.
- (3) "Micro" or small scale turbines mean turbines that are sized in order to fit on top of building and are usually less than ten (10) feet in height.
- (4) "Rotor diameter" means the cross sectional dimension of the circle swept by the rotating blades.
- (5) "Small wind energy system" means a wind energy system that:
 - a. Is used to generate electricity;
 - b. Has an individual wind turbine nameplate capacity of 100 kilowatts or less;
 - c. Has an total installed nameplate capacity of 300 kilowatts or less;
 - d. Has a total height of 170 feet or less;
 - e. Meteorological tower; and
 - f. Micro towers placed on buildings.
- (6) "Total height" means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
- (7) "Tower" means the monopole, freestanding, or guyed structure that supports a wind generator.
- (8) "Wind energy system" means equipment that converts and then stores or transfers energy from the wind into usable forms of energy (as defined by the Wis. Stat. §66.0403(1)(m)). This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.

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- (9) “Wind generator” means blades and associated mechanical and electrical conversion components mounted on top of the tower.

(Ord 72-11, §1, 3-8-11)

Stacking space means a hard surfaced area (e.g., asphalt, concrete or brick pavers) designated as an area for temporary queuing of motor vehicles.

Story means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling or roof above it.

Story, half means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half (½) story containing independent apartment or living quarters shall be counted as a full story.

Street means a dedicated right-of-way affording primary access by pedestrians or vehicles to abutting property. Egress and ingress easements shall not be considered streets or roads.

Street, private means a street that has not been accepted by the City of Appleton or other governmental agency.

Structure means anything constructed or erected with a fixed location on the ground or attached or resting on something having a fixed location on the ground or anything assembled with a combination of materials to give support to something having a fixed location on the ground, including but not limited to off-street parking lots and loading areas, buildings, walls, fences, towers, outdoor lighting fixtures, signs and billboards.

Structure, principal means a structure or building in which the principal or primary use of the lot is conducted.

Structural alteration means any change, other than incidental repairs, which would prolong the life of supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

Surface course means the horizontal layer of hard surface material such as asphalt, concrete, brick, pervious pavers, or similar material, which supports the traffic load.

T

Tasting room means a use offering fermented malt beverages, wine or intoxicating liquor for consumption and/or retail sales on the premises where the fermented malt beverages, wine or intoxicating liquor is manufactured and/or at an off-premises location associated with premises. Tasting rooms may include food sales.

Tavern means a use, licensed by the City, to sell retail alcoholic beverages to be consumed on or off premises and which may provide dancing, entertainment and food. The term tavern shall include bar, pub, nightclub and cocktail lounge.

Temporary contractor's offices means a temporary structure used as an office in conjunction with a construction project.

Temporary merchandise sales, outdoor means a temporary use that is conducted outside of an enclosed permanent building or structure on a lot where a temporary merchant or a group of temporary merchants displays and sells goods, wares and merchandise to the general public.

Temporary merchant includes any individual who engages in, conducts any temporary use in this City, either in one (1) location or by moving his or her place of business from one lot to another lot in the City, displaying or selling goods, wares or merchandise, or who solicits for such trade to the general public.

ZONING

Temporary model home sales office means a dwelling temporarily used as a real estate office for a residential development or subdivision under construction for on-site real estate sales.

Temporary structure means a structure without any foundation or footings and that is removed when the designated time period, activity, or use for which the temporary structure was erected or placed has ceased. For the purposes of this ordinance, mobile homes, travel trailers and any other structure that can be moved on wheels is considered as a temporary structure.

Tent means a temporary structure constructed of fabric or pliable material supported by any manner except by air or the contents that it protects, and is open without sidewalls or drops on seventy-five percent (75%) or more of the perimeter.

Towed vehicle storage means a use that provides for the temporary storage of vehicles that have been towed, but does not include disposal, permanent disassembly, salvage or accessory storage of inoperable vehicles.

Towing business means a use that provides for the removal of vehicles.

Townhouse. See *Dwelling, multi-family*.

Toxic and hazardous waste means waste materials as defined by the DNR and EPA.

Truck and heavy equipment sales and rental means a use involving the display and temporary storage of trucks or other equipment commonly used in commercial, industrial or construction enterprises for sale, lease or rental.

U

Undue hardship as used in connection with the granting of a variance means the property in question cannot be put to any reasonable use if established under conditions required by this chapter, and, where the plight of the landowner is due to circumstances unique to his property not created by the landowner, and the variance, if approved, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if any reasonable use for the property exists under the terms of the zoning ordinance.

Urban farm means the land or rooftops that are managed and maintained by an individual, group of individuals, organization or business for growing, harvesting, washing and packaging of fruits, vegetables, flowers and other plant and herb products with the primary purpose of growing food for sale and/or distribution.
(Ord 45-12, §1, 6-6-12)

Use means the purpose or activity for which the land, building or structure thereon is designated, arranged or intended, for which it is occupied, utilized or maintained.

Use, accessory means a use subordinate to and serving the principal use, building or structure on the same lot and customarily incidental thereto.

Use, permitted means a public or private use which of itself conforms to the purposes, objectives, requirements, regulations and performance standards of a particular district.

Use, principal means the primary or predominant use of any lot or parcel.

Use, special means a use that is permitted in a zoning district only if a special use permit is expressly authorized by the Common Council in accordance with the provisions in this zoning ordinance, but does not include a variance.

Use, temporary means a use that is established for a limited duration with the intent to discontinue such use upon the expiration of the time period. A temporary use is not a special event, which is regulated under the Municipal Code and the Special Event Policy.

V

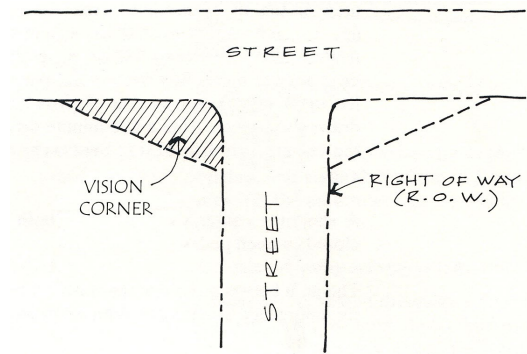
Variance means a modification or variation of the provisions of this chapter where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of this chapter would cause an undue hardship.

Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway including, but not limited to a recreational vehicle, except railroad trains. This definition also means motor vehicle.

(Ord 144-24, §1, 11-6-24)

Veterinarian clinic means a use in a completely enclosed building, or portion thereof, designed or used for the care, observation or treatment of domestic animals by or under the supervision of a licensed veterinarian.

Vision corner means triangular approach zones at street and/or driveway intersections intended to allow visibility of approaching traffic, pedestrians and bicycles and as regulated in Chapter 19, Traffic and Vehicles.



W

Warehouse means a use of a building or part of a building primarily involved in the indoor storage of goods and materials.

Wholesale facility means a use that maintains a stock of goods, other than samples on premises, and is engaged in the resale of commodities in quantity, to businesses, industries and institutions.

Winery means a use which manufactures, bottles and packages wine on premises including storage and distribution of wine that have been manufactured on the premises. The establishment shall hold the required liquor license issued by the state and/or city if, in addition to offering for sale fermented malt beverages manufactured on the premises, it also offers for sale fermented malt beverages and other alcohol manufactured by other producers other than the establishment.

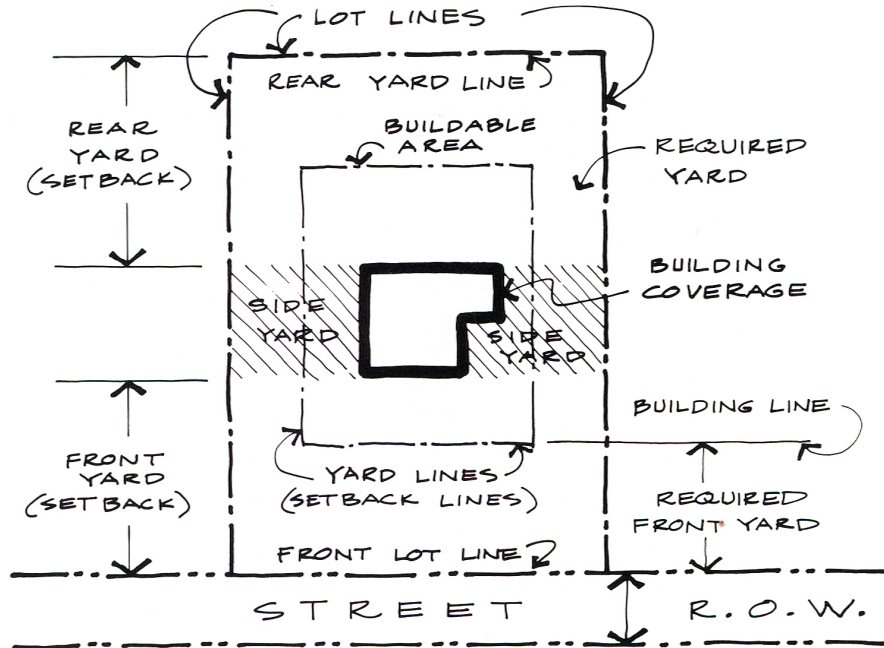
X

No Definitions.

Supp. #100

Y

Yard means a required open space, on a lot between a lot line and a building or structure, which is unoccupied and unobstructed from the ground upward, except for permitted obstructions (see graphic on the following page and the Required Yard graphic).



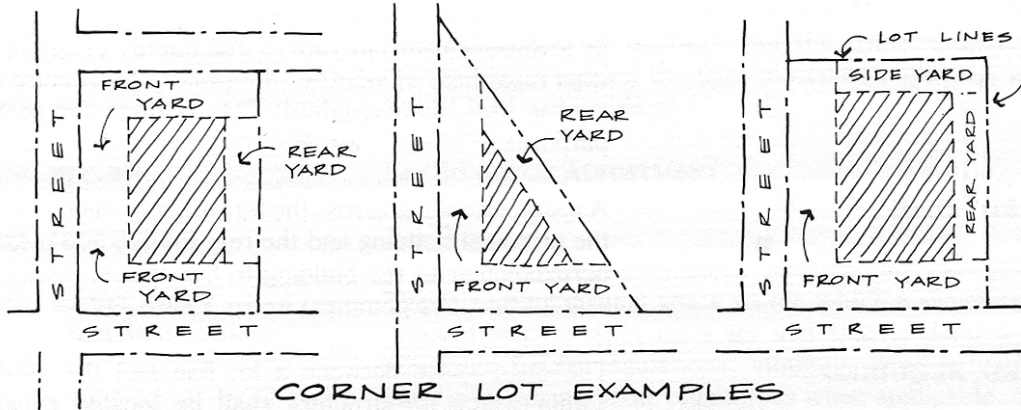
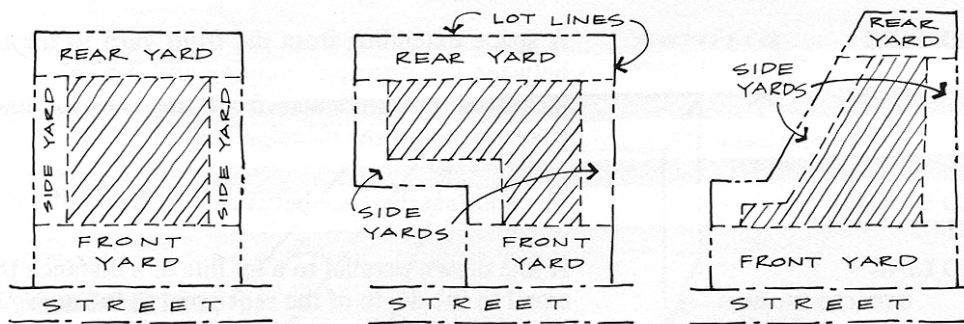
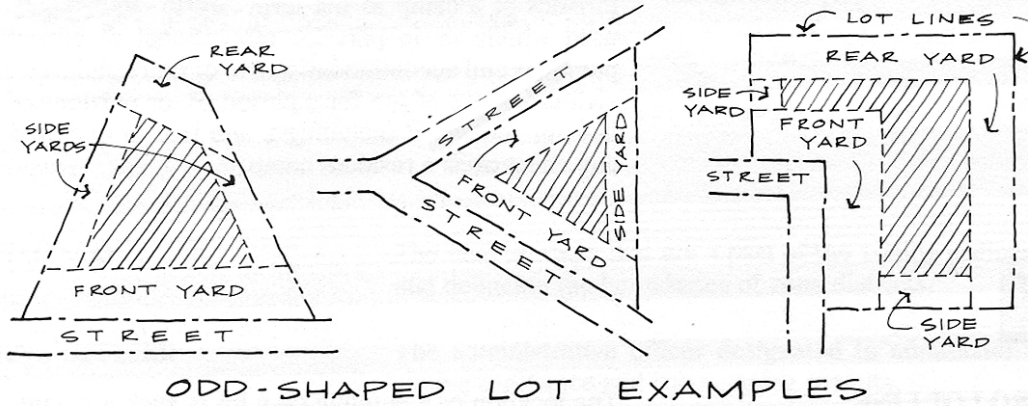
Yard, front means an open space extending the full width of the lot, between the main building and the front lot line, unoccupied and unobstructed by buildings or structures from the ground upward except as provided herein, the depth of which shall be measured as the least distance between the front lot line and the front foundation wall of the main building. (See the Required Yard graphic.)

Yard, rear means an open space extending the full width of the lot, between the main building and the rear lot line, unoccupied and unobstructed by buildings or structures from the ground upward, except as provided herein, the depth of which shall be measured as the least distance between the rear lot line and the rear foundation wall of the main building. (See the Required Yard graphic.)

Yard, side means an open space extending from the front yard to the rear yard, between the main building and the side lot line, unoccupied and unobstructed from the ground upward, except as provided herein, the depth of which shall be measured as the least distance between the side lot line and the side foundation wall of the main building. (See the Required Yard graphic.)

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APPLETON CODE



REQUIRED YARDS

 BUILDING (ZONING) ENVELOPE
(TWO DIMENSIONAL)

Z

Zoning Administrator shall be the Inspections Supervisor.

Zoning amendment means a change of the zoning map or zoning text authorized by the City, either in the allowable use within a district, in the boundaries of a district or in a change to the ordinance text.

Zoning district means an area or areas within the limits of the City for which the regulations and requirements governing uses of land, premises and buildings are uniform, within which certain yards and open spaces are required and certain height limits are established for buildings.

Zoning district, overlay. See ***Overlay zoning district.***

Zoning map means the map or maps incorporated into this chapter as a part thereof, designating the zoning districts. (Ord 121-05, §1, 10-25-05; Ord 81-07, §1, 5-8-07; Ord 86-08, §1, 5-27-08; Ord 121-08, §1, 8-12-08; Ord 141-08, §1, 10-7-08; Ord 201-11, §1, 9-27-11; Ord 202-11, §1, 9-27-11; Ord 232-11, §1, 12-27-11; Ord 44-12, §1, 6-6-12; Ord 99-12, §1, 10-9-12; Ord 68-13, §1, 8-13-13; Ord 25-20, §1, 3-25-20; Ord 117-23, §1, 10-10-23; Ord 144-24, §1, 11-6-24)

Secs. 23-23 – 23-30. Reserved.

ARTICLE III. GENERAL PROVISIONS

Sec. 23-31. Rules.

(a) The language set forth in the text of this chapter shall be interpreted in accordance with the following rules of construction:

- (1) Any use not herein expressly permitted is hereby expressly prohibited.
- (2) Sexually-oriented establishments are regulated pursuant to §23-390.
- (3) The singular number includes the plural and plural the singular.
- (4) The present tense includes the past and future tenses and the future, the present.
- (5) The word “shall” is mandatory and the word “may” is permissive.
- (6) The masculine gender also indicates the feminine and neutral genders.
- (7) Words or terms defined in this Chapter shall be construed as set forth in the definition section. Any words or terms not found in the definition section shall have the meaning set forth in *The New Illustrated Book of Development Definitions* by Harvey S. Moskowitz, the State Building Code or Uniform Dwelling Code. If a word or term is not defined, it shall have the meaning set forth in the latest edition of Webster’s New World College Dictionary.
- (8) The word “person” shall include any firm, association, organization, partnership, trust, company or corporation, as well as an individual.
- (9) The phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for” and “occupied for”.
- (10) The words “Community Development Director” or “Inspections Supervisor” or “Director” shall include his or her designee.

(11) Application fees shall be paid as on file in the Office of the City Clerk.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96, Ord 155-02, §1, 7-23-02; Ord 203-11, §1, 9-27-11)

Sec. 23-32. Application of this chapter.

This ordinance applies to all land and land development within the jurisdictional limits of the City of Appleton, Wisconsin.

This ordinance shall not be construed as eliminating or reducing any action now pending under, or by virtue of, an existing law or previous zoning, subdivision or related code. Furthermore, this code shall not be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue.

(a) In their interpretation and application, the provisions of this chapter shall be minimum requirements for the promotion of the public health, safety, morals, comfort, convenience and general welfare of the community.

(b) Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

(c) From and after the effective date of this chapter:

ZONING

- (1) The use of all land and every building or portion of a building erected, altered in respect to height and area, added to, or relocated, and every use within a building or use accessory thereto, in the City, shall be in conformity with the provisions of this chapter.
- (2) Any existing lot, existing building or structure, and any existing use or properties not in conformity with the regulations herein prescribed, shall be regarded as nonconforming, but may be continued, extended or changed, subject to the special regulations herein provided in §23-42 with respect to nonconforming properties or uses.

(d) A nonconforming use in violation of the provisions of the zoning ordinance that this chapter supersedes shall not be validated by the adoption of this chapter unless it is in compliance in all respects.

(e) If there are found to be differences between the meaning or implication of the text of this code and any drawing, table, figure, title or section heading, the text of this code shall apply.

(f) See §23-50 for exceptions to structures that may appear nonconforming.
(Ord 61-94, §5, 5-18-94; Ord 150-24, §1, 11-6-24)

Sec. 23-33. Private agreements.

This chapter does not revoke or repeal any easement, covenant, or any other private agreements which are legally enforceable, provided that where the regulations of this chapter are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements, the requirements of this chapter shall govern.
(Ord 61-94, §5, 5-18-94)

Sec. 23-34. Separability.

It is hereby declared to be the intention that the provisions of this chapter are separable in accordance with the following:

(a) If any court of competent jurisdiction shall determine any provisions of this chapter to be invalid, such judgment shall not affect any other provisions of this chapter not specifically included in said statement.

(b) If any court of competent jurisdiction shall determine invalid the application of any provision of this chapter to a particular property, building, or structure, such judgment shall not affect the application of said provision to any other property, buildings or structure not specifically included in said judgment.
(Ord 61-94, §5, 5-18-94)

Sec. 23-35. Transition rules.

This section addresses the applicability of new substantive standards enacted by this ordinance to activities, actions, and other matters that are pending or occurring as of the effective date of this ordinance.

(a) Any application that has been filed with the Community Development Department or Inspections Division and has been determined to be fully complete by the City, prior to the effective date of this ordinance, shall be regulated by the terms and conditions of the ordinances and codes that were in place at the time of filing. However, all administrative procedures and penalties shall follow those set forth by this code.

(b) Except as noted otherwise, any application for a Zoning District Map Amendment that was filed, and has been determined to be fully complete by the City, prior to the effective date of this ordinance, shall continue through the process to completion pursuant to the terms and conditions of the ordinances and codes that were in place at the time of filing.

(c) Planned development districts in force at the time of adoption of this ordinance shall continue to be controlled under the standards of the existing planned development district until rezoned by Common Council. However, processes for approving or amending adopted final development plans, plats, certified survey maps, or site plans, shall follow the procedures of this ordinance.

APPLETON CODE

(d) Any application before the Board of Appeals or any application that has been filed with the Community Development Department or Inspections Division and is fully completed, prior to the effective date of this ordinance, shall continue the process pursuant to the terms and conditions of the ordinance that were in place at the time of filing, provided that:

- (1) If such application is no longer required by the terms of this ordinance, the application will be dismissed; or,
- (2) If the proposed use or development requires additional approvals from the Board of Appeals pursuant to the terms of this ordinance that were not required under the previous ordinance, the application will be amended to include only those additional approvals that are now required and within the purview of the Board of Appeals.

(e) All new building sites shall meet the requirements of this ordinance unless, prior to the effective date of this ordinance:

- (1) A building permit was issued and is still valid; or,
- (2) A parcel was approved as a buildable lot by the Common Council, Plan Commission, Community Development Director or the Board of Appeals prior to the effective date of this code.

(f) Previously Approved Special Use Permits.

- (1) When a special use is no longer listed in the applicable use table, all special use permits approved prior to the effective date of this chapter or subsequent amendments to this chapter shall remain in full force and effect under the terms and conditions of the special use permit approval. Any expansions or change of use of a previously approved special use permit may require compliance with the nonconforming building, structure, use and lot and/or special use permit provisions of this chapter.
- (2) When a special use becomes a permitted use in the applicable use table. All special use permits approved prior to the effective date of this chapter or subsequent amendments to this chapter, are no longer needed and become null and void. The provisions of the special use permits are no longer applicable for uses that are listed as a principal permitted use in the corresponding zoning district.

(Ord 26-20, §1, 03-25-20; Ord 155-24, §1, 11-6-24)

Sec. 23-36. Repeal of conflicting ordinances and effective date.

All ordinances or parts of ordinances in conflict with this zoning ordinance, or inconsistent with the provisions of this chapter, are hereby repealed to the extent necessary to give this chapter full force and effect. This chapter shall become effective on June 8, 2004.

(Ord 61-94, §5, 5-18-94)

Sec. 23-37. Zoning districts.

(a) The zoning districts are so designed to assist in carrying out the intents and purposes of the comprehensive plan and are based upon the comprehensive plan which has the purpose of protecting the public health, safety, comfort, convenience and general welfare. Therefore, the incorporated territory of the City of Appleton, Wisconsin, is hereby divided into the following zoning districts wherein regulations are uniform for each class or type of building or structure, or use, throughout each zoning district in order to:

- (1) Classify, regulate, and restrict the location of residences, commercial establishments, industries, institutional, recreation and other land uses, and the location of buildings designed for specific uses;
- (2) Assure the proper relation and conformity of new buildings and structures to the fabric of existing surrounding neighborhoods;
- (3) Regulate and limit the heights of buildings and structures;

ZONING

- (4) Regulate the percentages of lot areas which may be covered by impervious surfaces;
- (5) Establish setback lines, sizes of yards and other open spaces surrounding buildings;
- (6) Regulate the density of the City of Appleton, Wisconsin; and
- (7) To carry out the intent and purposes established in the VISION 20/20: Comprehensive Plan for the City of Appleton, Wisconsin.

(b) The City is hereby divided into the following zoning districts and zoning overlay districts:

<i>Symbol</i>	<i>District Name</i>
AG	Agricultural District
R-1A	Single-Family District
R-1B	Single-Family District
R-1C	Central City Residential District
R-2	Two-Family District
R-3	Multifamily District
P-I	Public Institutional District
NC	Nature Conservancy District
C-O	Commercial Office District
C-1	Neighborhood Mixed Use District
C-2	General Commercial District
CBD	Central Business District
P	Parking District
M-1	Industrial Park District
M-2	General Industrial District
PD	Planned Development Overlay District
TND	Traditional Neighborhood Overlay District

(Ord 61-94, §5, 5-18-94)

(c) Any land use that is not listed or that is questionable as a permitted use, accessory use or special use in the established district, where such use is proposed, is not allowed unless determined otherwise, through interpretation of this intent of the ordinance and the purpose for each individual district.

- (1) The Community Development Director may determine that an unlisted or questionable use may be placed if it is significantly similar to another use that is a principal use, accessory use or as a special use.
- (2) The decision of the Community Development Director may be appealed to the Plan Commission.
- (3) In no instance may this interpretation be construed as a process for establishing a use variance.

Sec. 23-38. Official zoning map.

The Official Zoning Map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

Amendments to the Official Zoning Map may be made from time to time as provided for in §23-65, Zoning amendments, of this chapter. Such changes shall be made promptly following action by the Common Council by the Community Development Director, who shall be responsible for maintaining the Official Zoning Map. The Community Development Director shall annually provide the City Clerk with an updated and certified copy of the current Official Zoning Map.

APPLETON CODE

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret due to the nature or number of changes, the Common Council may, by resolution, adopt a new Official Zoning Map that shall, to the extent possible, duplicate the accuracy of the damaged, destroyed or lost map.
(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96)

Sec. 23-39. Rules for interpretation of district boundaries.

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- (a) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines;
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (c) Boundaries indicated as approximately following City limits shall be construed as following such City limits;
- (d) Boundaries indicated as following railroad lines shall be construed to be the centerline of the railroad right-of-way;
- (e) Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines;
- (f) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (e) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- (g) Boundaries indicated as dividing a lot or plot of land shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- (h) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (a) through (g) above, the Community Development Director shall interpret the district boundaries.
(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96)

Sec. 23-40. Application of district regulations.

- (a) The regulations set by this chapter within each district shall be minimum or maximum regulations and shall apply uniformly to each class or kind of structure or land except as provided:
 - (1) No structure or land shall hereafter be used or occupied, and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
 - (2) No structure shall hereafter be erected or altered:
 - a. To exceed the height;
 - b. To accommodate or house a greater number of families;
 - c. To have narrower or smaller rear yards, front yards, side yards or other open spaces than herein required;
or
 - d. To be in any other manner contrary to the provisions of this chapter.
 - (3) Every building hereafter erected or moved shall be on a lot having frontage on a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection and off-street parking.

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- (4) No more than one (1) principal building shall occupy a single lot, except where a lot or tract is in a PD district or used for multi-family, educational, institutional, motel, hotel, commercial or industrial purposes. In such cases, more than one (1) principal building may be located upon the lot or tract, provided such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located.
- (5) No part of a yard or other open space or off-street parking or loading space required in connection with any building for the purpose of complying with this chapter, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building except as specified in §23-172, Off-street parking and loading standards and §23-601, Landscaping and screening standards, of this chapter.
- (6) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter.
- (7) Temporary structures are prohibited for use as permanent principal or accessory buildings or structures in all zoning districts, except for mobile homes.

(b) There shall not be more than one (1) zoning district on any parcel of land with the exception of the application of an overlay district which has been applied over a base zoning district and which has been approved by the City.
(Ord 61-94, §5, 5-18-94; Ord 160-94, §1, 12-21-94; Ord 142-08, §1, 10-7-08)

Sec. 23-41. Exemptions.

The following uses are exempt from the permit provisions of this chapter as stated below:

- (a) Essential services as defined in Article II are exempted from the permit provisions of this chapter, provided that all such systems shall be placed underground when located within a residentially zoned district unless otherwise authorized by action of the Plan Commission.
- (b) State installed sound barrier fences shall not require a building permit, but shall comply with the provisions of §23-43, Accessory uses and structures.
- (c) Radio and television antennas not exceeding sixty (60) feet in height shall not require a building permit, but shall comply with the provisions of §23-43, Accessory uses permitted in residential and non-residential districts.
- (d) Dish antennas not exceeding one (1) meter in diameter shall not require a building permit, but shall comply with the provisions of §23-43, Accessory uses permitted in residential and non-residential districts.
(Ord 61-94, §5, 5-18-94; Ord 87-08, §1, 5-27-08)

Sec. 23-42. Nonconforming buildings, structures, uses and lots.

(a) **Purpose.** Within the Zoning Districts established by this chapter, there may exist uses, buildings, structures and lots that do not conform to the applicable provisions of this chapter, the purpose of this section is to specify those circumstances and conditions under which these nonconforming uses, buildings, structures, and lots may be allowed to continue.

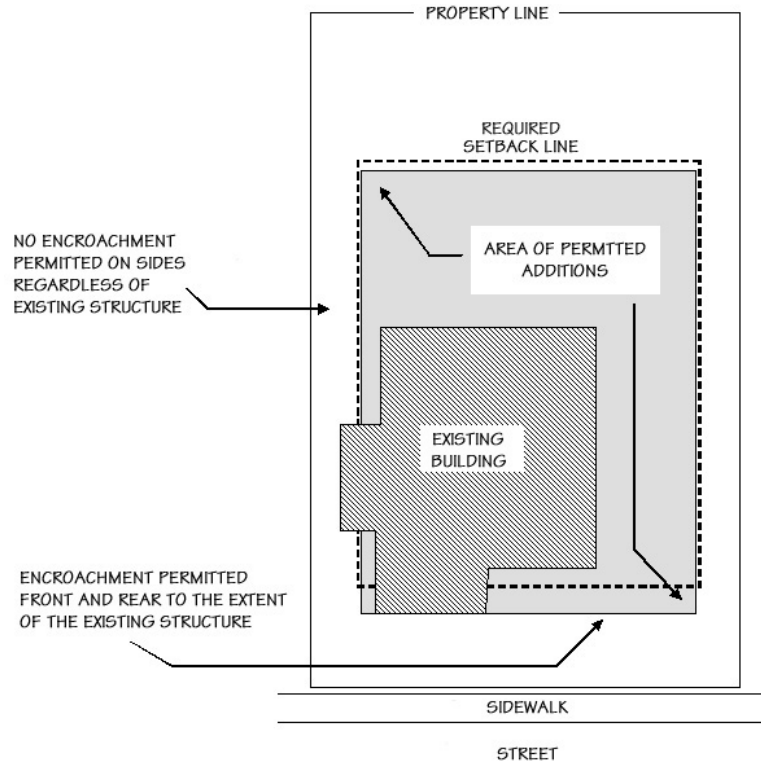
(b) **Continuance of nonconforming principal or accessory buildings or structures.** A nonconforming principal or accessory building or structure existing on the effective date of this chapter or subsequent amendments to this chapter may continue to exist. However, said nonconforming principal or accessory building or structure shall be subject to the following requirements:

- (1) **Principal building or structure alterations.** Alterations within the existing footprint of a nonconforming principal building or structure may be allowed provided that the alteration does not increase the degree of the existing nonconformity(ies) of the nonconforming principal building or structure.

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(2) **Principal building or structure additions or expansions.** Additions or expansions made to nonconforming principal buildings or structures may be permissible in the front, side and rear yards provided all of the following requirements of this subsection are complied with:

- a. **Side yard setback.** The addition or expansion shall not encroach into the required principal building or structure side yard setback and required building and/or structure separation setback of the applicable zoning district in which it is located, unless otherwise stated in this chapter;
- b. **Front and rear yard setback.** The addition or expansion shall not further encroach beyond the existing nonconforming front or rear yard setbacks of the existing nonconforming principal or structure, unless otherwise stated in this chapter;



- c. **Other requirements.** The addition or expansion shall conform with all other requirements of the applicable zoning district in which it is located and all other applicable provisions of this chapter, unless otherwise stated in this chapter.
- (3) **Accessory building or structure alterations.** Alterations within the existing footprint of a nonconforming accessory building or structure may be allowed provided that the alteration conforms with the requirements of the applicable zoning district in which it is located, and provided the alteration conforms with all other applicable provisions of this chapter.
- (4) **Accessory building or structure additions or expansions.** Additions or expansions made to nonconforming accessory buildings or structures may be permissible provided that all of the following requirements of this subsection are met and provided the addition or expansion conforms with all other applicable provisions of this chapter.
- a. The existing accessory building or structure is not located closer than two (2) feet from the side or rear lot line.

ZONING

- b. The addition or expansion shall be located a minimum of five (5) feet from the principal building or structure.
 - c. The addition or expansion shall not result in new construction which exceeds fifty percent (50%) of the original size of the accessory building or structure or two hundred (200) gross square feet, whichever is less.
 - d. The addition or expansion shall not further encroach beyond the existing nonconforming front, side or rear yards setback.
- (5) ***Restoration or replacement of certain nonconforming principal or accessory buildings or structures.***
- a. A nonconforming principal or accessory building or structure may be restored, replaced or repaired to the size, location and use that it had immediately before damage or destruction occurred, and without regard to the cost of such restoration, replacement, repairs or improvements if both of the following apply:
 - 1. The nonconforming principal or accessory building or structure was damaged or destroyed on or after March 2, 2006.
 - 2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.
 - b. The size of such nonconforming principal or accessory building or structure or to which this subsection applies may be enlarged if such enlargement is made necessary for the principal or accessory building or structure to comply with applicable state and federal requirements.
- (6) ***Relocation of a principal or accessory building or structure.*** No principal or accessory building or structure shall be moved, or placed in whole or in part, to any other location on the same or any other lot unless every portion of such building or structure which is moved or placed and, the use thereof, conforms to all of the requirements of the applicable zoning district in which it is located, and provided the principal or accessory building or structure conforms with all other applicable provisions of this chapter.
- (7) ***Principal or accessory building and structure ordinary maintenance and repairs.*** Ordinary maintenance and repairs within the existing footprint of a nonconforming principal or accessory building or structure may be allowed provided that the ordinary maintenance and repair does not increase the degree of the existing nonconformity(s) of the nonconforming principal or accessory building or structure.
- (8) ***Nonconforming parking lots or loading areas.*** A nonconforming off-street parking lot or loading area existing on the effective date of this chapter or subsequent amendments to this chapter may continue to exist. However, said nonconforming off-street parking lot or loading area shall be subject to the following provisions:
- a. The maintenance, overlay, resurfacing, rehabilitation, reconstruction or expansions to a nonconforming off-street parking lot or loading area shall not increase the degree of the existing nonconformity(ies) of the nonconforming off-street parking lot and/or loading area.
 - b. Wherever possible, when rehabilitation or reconstruction occurs to a nonconforming off-street parking lot or loading area, all applicable off-street parking lot and/or loading area standards governing design, interior landscaping, perimeter landscaping and required amount of parking and loading spaces identified in this chapter shall be complied with. Sites that are physically constrained from complying with all aforementioned off-street parking lot and/or loading area standards shall comply to the maximum extent practicable, as determined by a site plan review pursuant to §23-570.
 - c. An expansion of a nonconforming off-street parking lot or loading area shall require that the expanded portion conform to the all applicable provisions of this chapter.

(c) ***Continuance of nonconforming use of building, structure, or land.*** The nonconforming use of a building structure or land existing on the effective date of this chapter or subsequent amendments to this chapter may be continued. However, said nonconforming use of a building, structure or land shall be subject to the following requirements:

- (1) ***Change in tenancy or ownership.*** A historically allowed nonconforming use of a building, structure or land may be transferred to a new tenant or owner provided; that the historically allowed nonconforming use is not expanded, relocated or discontinued as identified in subsections (2), (3) and (5) of this section.
- (2) ***Expansions.*** The nonconforming use of a building, structure or land shall not be enlarged or expanded, unless otherwise specified in this chapter.
- (3) ***Relocation.*** No nonconforming use of a building, structure or land shall be moved or placed in whole or in part to any other portion of the lot, parcel or site than was occupied by such use at the time of the effective date of this chapter or subsequent amendments to this chapter.
- (4) ***Ordinary maintenance and repairs.***
 - a. Ordinary maintenance and repairs required to keep a building, structure or use in a safe condition, or when necessary to comply with state or local building codes or property maintenance requirements may be allowed provided that ordinary maintenance and repair conforms with the applicable requirements of this chapter, and there is not an identifiable change in or expansion of the historically allowed nonconforming use.
 - b. Off-street parking lot and loading area maintenance, overlay, resurfacing or rehabilitation may be allowed provided that maintenance, overlay, resurfacing or rehabilitation activity conforms with the applicable requirements of this chapter and there is not an identifiable change in or expansion of the historically allowed nonconforming use of land as a parking lot or loading area use.
- (5) ***Discontinuance of nonconforming use.*** The nonconforming use of a building, structure or land which has been discontinued for a period of twelve (12) consecutive months, shall be deemed abandoned and the future proposed use of the building, structure or land shall be in conformity with the use requirements of the applicable zoning district in which it is located.

(d) ***Establishing the existence of a nonconforming use.*** The burden of proof that a nonconforming use of structure, building or land existed on the effective date of this chapter or subsequent amendments to this chapter shall be the responsibility of the property owner. Any property owner requesting to have a nonconforming use validated under the terms of this chapter or subsequent amendments to this chapter, shall make a request to the Inspections Supervisor for the issuance of a Certificate of Occupancy in accordance with this subsection.

- (1) ***Certificate of Occupancy for a nonconforming use.*** In order to have a nonconforming use of structure, building or land validated under the terms of this chapter or subsequent amendments to this chapter, the property owner may request a certificate of occupancy be issued from the Inspections Supervisor. The property owner shall present historical data to the Inspections Supervisor that demonstrates the nonconforming use occupied the land, building or structure in conformance with the use regulations of the applicable zoning ordinance(s) preceding the effective date of this chapter or any subsequent amendments to this chapter and did not discontinued for a period of twelve (12) consecutive months between the time the use became nonconforming and the date when the request for a certificate of occupancy is submitted to the Inspections Supervisor.
 - a. The decision of the Inspections Supervisor as to issue or not issue a certificate of occupancy shall be based upon the information provided by the property owner of the property on which the nonconforming use is located and on any other information available to the Inspections Supervisor as public record. Information may include, but shall not be limited to historical data related to building permits, certificate of occupancy permits, licenses, tax records, sales receipts, business records, photographs, site plans, utility information, assessment information, inspection records, affidavits from the owner or neighboring property owners who have knowledge of the existence of the use.

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(e) ***Nonconforming due to public acquisition.*** When the federal, state, county or city government acquires land for public use including dedication, condemnation or purchase, the affected property or structure shall not be considered nonconforming if the property or structure was conforming prior to the federal, state, county or city government's action. All affected properties or structures shall be documented in the Inspections Division. This will be effective as of June 1, 1996 and not be retroactive.

(f) ***Nonconforming lots of record.*** Nonconforming lots of record existing on the effective date of this chapter or subsequent amendments to this chapter, may be built upon, under the following conditions and provided all other applicable provisions of this chapter are met.

- (1) The minimum side and rear yard setbacks shall be proportionally applied as based on the proportion that the nonconforming lot is smaller than the minimum lot size required in the zoning district the lot is located. Fractional numbers shall be rounded up to the nearest whole number.
- (2) In no case, however, shall a side yard setback be less than five (5) feet.
- (3) The minimum front yard setback shall be as established by the zoning district in which the lot is located without reduction unless abutting structures are closer to the front lot line. In that case, the adjusted front yard setback shall be the average of the existing front yard setbacks of the abutting structures on each side.
- (4) All other applicable development standards of the zoning district shall be complied with.

Example:

Minimum district lot size – 8,000 square feet.

Existing lot size – 6,000 square feet.

Minimum district yard setbacks:

Front – Twenty (20) feet

Side – Eight (8) feet

Rear – Twenty-five (25) feet

Existing lot size is seventy-five percent (75%) the size of the minimum district lot size: $(6,000/8,000) = 0.75$

Apply the seventy-five percent (75%) to side and rear yard setback requirements of the district:

$$0.75 \times 8' = 6'$$

$$0.75 \times 25 = 18.75'$$

Adjusted minimum side yard setback requirement is six (6) feet and adjusted minimum rear yard setback requirement is nineteen (19) feet.

(g) ***Special provisions for manufactured home communities.*** A manufactured home community licensed under Section 101.935, Wis. Stats., that is a legal nonconforming use continues to be a legal nonconforming use notwithstanding the occurrence of any of the following activities within the community:

- (1) Repair or replacement of any manufactured homes.
- (2) Repair or replacement of infrastructure.

(h) ***Special provisions for mobile home and manufactured homes not in a mobile home park.*** A mobile home or a manufactured home not located in a mobile home park is considered a nonconforming use and must comply with Section 11-4 of the Municipal Code of the City of Appleton.

(Ord 88-08, §1, 5-27-08; Ord 233-11, §1, 12-27-11; Ord 27-20, §1, 3-25-20)

Supp. #100

Sec. 23-43. Accessory uses, buildings and structures.

(a) **Authorization.** Accessory uses, buildings and structures are permitted in any district in connection with any principal use lawfully existing within such district.

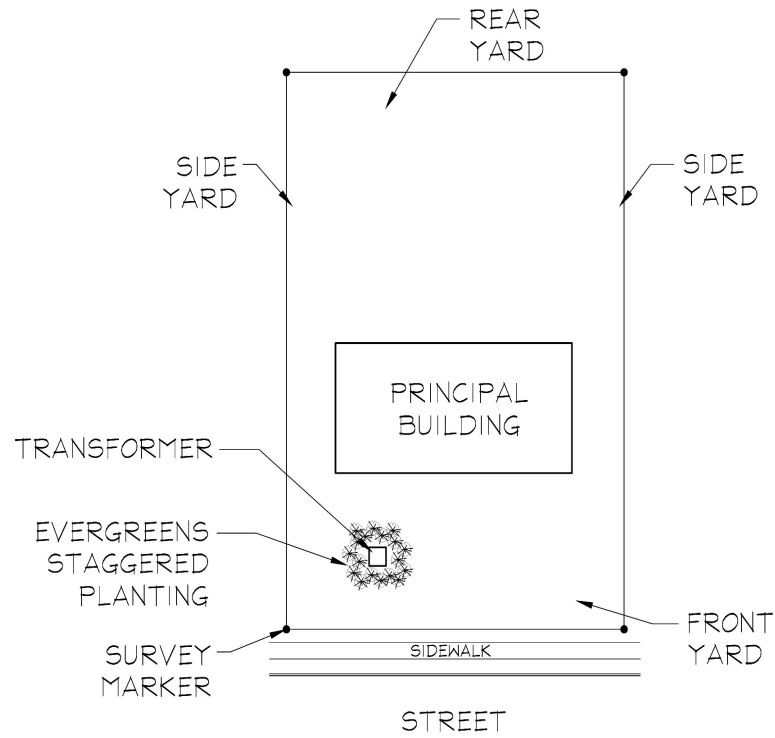
(b) **Purpose.** Authorization and limitation of specific accessory uses, buildings and structures in the appropriate districts is required to accommodate accessory activities with sufficient impact to require public regulation and having such a relationship to certain principal uses as to require accommodation within the same district.

(c) **Permitted accessory uses and structures.** Accessory uses, buildings and structures include, but are not limited to, the following:

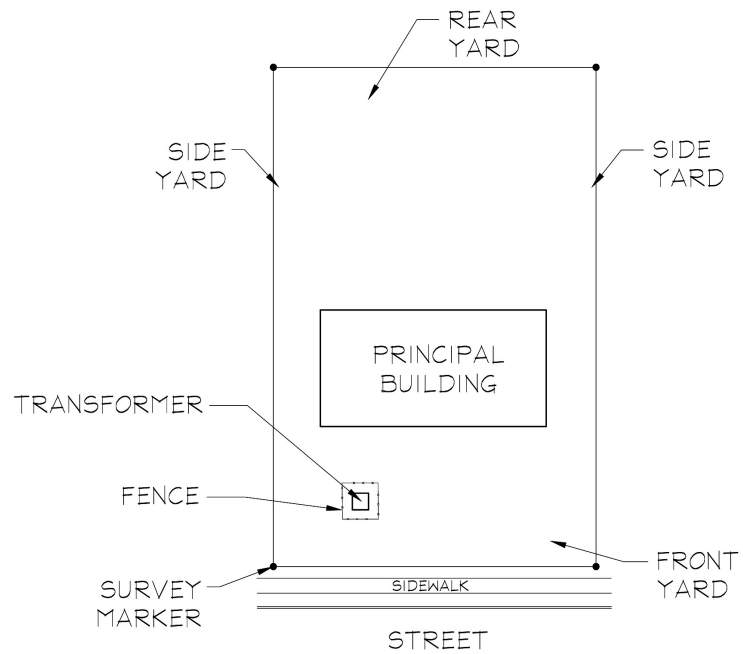
- (1) Attached garages, attached carports, detached accessory buildings such as detached garages, detached carports, storage sheds, tool/garden sheds, gazebos, children's play houses, pavilions or similar buildings.
- (2) Decks and patios.
- (3) Parking lots, loading docks, refuse containers and dumpster enclosures.
- (4) Swimming pools and pool houses including, but not limited to, pool service structures, pumping equipment, and filtering equipment accessory to a principal building and limited to use by the occupants thereof and their guests. (See Chapter 4, of the Municipal Code Article VII. Swimming Pools)
 - a. All pool service structures, including, but not limited to, pumping equipment, and filtering equipment shall be screened from view of adjacent properties to the maximum height of the unit.
- (5) Tennis courts, basketball courts or similar recreational facilities accessory to a principal building or use and limited to use by the occupants thereof and their guests. Fixed lighting shall be so arranged to prevent a direct view of the lamp or reflection device from adjacent property.
- (6) Building management offices when limited to the management of the building in which such office is located or a complex of buildings forming an integrated development of which such building is a part.
- (7) Transformer boxes may be permitted in the front yard provided that:
 - a. If the box exceeds five (5) feet wide by five (5) feet long by four (4) feet in height the box shall meet the minimum front yard setback of the zoning district in which it is located.
 - b. If the box is smaller than five (5) feet wide by five (5) feet long by four (4) feet in height, the box may be located anywhere in the front yard.
 - c. The box shall be screened in accordance with §23-601(f)(22) where visible from the public right-of-way.
 - d. The access door to the box is encouraged to be located opposite the side facing the public right-of-way.
 - e. The Diggers Hotline is contacted prior to the siting of the box.

ZONING

TRANSFORMER LOCATION EVERGREEN SCREEN



TRANSFORMER LOCATION FENCE SCREEN



APPLETON CODE

- (8) Radio, satellite, and television antennas not exceeding sixty (60) feet in height do not require a building permit, but are subject to the following:

a. Radio and television antennas:

1. Antennas in residential zones that are roof-mounted shall not extend higher than twenty-five (25) feet above the peak of the roof, except a single-vertical pole antenna may extend to thirty (30) feet above the peak of the roof.
2. Not more than one (1) ground-mounted antenna shall be permitted on any lot and shall be erected or maintained to the rear of the main building in all districts. No portion of a ground-mounted antenna or its guy wires may extend into a required setback area for an accessory structure.
3. The antenna including guy wires, supporting structures and accessory equipment shall be located and designed so as to minimize the visual impact on surrounding properties and from public streets. The materials used in constructing the antenna should not be unnecessarily bright, shiny, garish or reflective.
4. Antennas shall be installed to meet all structural specifications of the manufacturer. All components and materials shall be noncombustible and corrosive-resistant. Self-designed and homemade supporting structures for antennas subject to this chapter shall require engineering and/or design analysis by a registered engineer prior to installation.
5. Clearance of antennas or any supporting guy wires from power or communication lines shall be regulated by Volume 1 of the Wisconsin State Electrical Code.

b. Satellite dish antennas:

1. Satellite dish antennas may either be ground-mounted or roof-mounted, but shall maintain standards as required in Section 23-43(c)(8)a.1. through 5. of this section. Dish antennas over three (3) feet in diameter shall require a building permit.
2. The maximum height of a ground mounted satellite dish shall be ten (10) feet.
3. Ground-mounted satellite dishes over three (3) feet in diameter shall be setback a minimum distance equal to its height. In no case, however, shall the satellite dish be erected any closer than the setback line of the principal structure.
4. Roof mounted satellite dishes shall not exceed the roof height by more than four (4) feet.
5. Satellite dishes shall be of one color that is compatible with its surroundings.
6. No advertising, logo or corporate symbols other than that of the dish manufacture shall be permitted on the dish.

(9) Home garden.

(10) Residential driveways, commercial driveways, driveway extensions and parking pads.

(Ord 145-24, §1, 11-6-24)

(d) **General regulations for accessory uses, buildings and structures.** All accessory uses, buildings and/or structures shall abide by the following general regulations:

- (1) No accessory use, building and/or structure shall be constructed or established on a lot prior to the principal use or building being present or under construction.

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- (2) When attached to the principal building, accessory buildings and/or structures shall comply with all requirements of this chapter applicable to the principal building, unless otherwise stated, including, but not limited to setback requirements, building height limits, maximum lot coverage standards.
 - (3) No truck, truck tractor, truck trailer, canopy or bus, or portion thereof, shall be used for, storage purposes, as a principal use and/or structure or an accessory use and/or structure in any zoning district, unless otherwise stated in this chapter.
 - (4) Accessory uses, buildings and/or structures, may contain toilet facilities that are installed in accordance with applicable Municipal Code regulations, including but not limited to, State of Wisconsin Uniform Dwelling Code, Water Utility, Sewer and Wastewater Disposal regulations.
 - (5) Accessory uses, buildings and/or structures shall be located on the same lot as the principal use, structure or building.
 - (6) Only one (1) detached garage or detached carport shall be permitted on a lot whose principal use is a single or two-family dwelling.
 - (7) Detached accessory buildings shall not be used as a secondary dwelling, unless the provisions of Sec. 23-55 are met.
 - (8) Dumpster enclosures are exempt from (5) above, refer to Sec. 23-47 Refuse container and dumpster enclosure standards.
- (Ord 27-21, §1, 7-7-21; Ord 118-23, §1, 10-10-23)

(c) *Use and location restrictions for vehicles.*

- (1) *Purpose.* The purpose of this subsection is to maintain the acceptable appearance of City neighborhoods by identifying acceptable locations for parking any vehicle and to provide access for vehicles from the public right-of-way or a private street into private property.
- (2) *When associated with residential dwellings.*
 - a. Enclosed parking of commercial or service vehicles. A maximum of one (1) commercial or service vehicle rated at Class A, B and C, not including semitrailers may be parked within an attached garage, attached carport, detached garage, and/or detached carport.
 - b. Outdoor parking of commercial or service vehicles. A maximum of one (1) commercial or service vehicle rated at Class A, B, and C, not including semitrailers may be parked outdoors on a lot.
 - c. Outdoor parking of trailers and recreational vehicles. The outdoor parking of not more than one (1) trailer or recreational vehicle may be permitted provided:
 1. Such trailer or recreational vehicle shall not be used for business, living, sleeping or housekeeping purposes.
 2. Such trailer or recreational vehicle shall not be permanently connected to sewer lines, water lines or electricity.
 3. Such trailer or recreational vehicle shall not be used for the storage of goods, materials or equipment not normally a part of or essential for immediate use in that vehicle or trailer.
- (3) *Location and Setback Restrictions for Outdoor Parking of Vehicles when associated with Residential Dwellings.*
 - a. Public Right-of-Way Encroachment Prohibited: Parked vehicles shall not extend beyond the front lot line and encroach into the public right-of-way, including the public sidewalk, terrace and driveway apron.

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b. Front Yard:

1. Within the front yard, all vehicle wheels shall be located on the residential driveway surface.
2. Parking pads are prohibited in the front yard.
3. Outdoor parking of boats or boat trailers greater than twenty-six (26) feet are prohibited in the front yard.

c. Side Yard:

1. Within the side yard, all vehicle wheels shall be located on the residential driveway surface and/or parking pad.
2. Outdoor parking of boats or boat trailers greater than twenty-six (26) feet are prohibited in the side yard.

d. Rear Yard:

1. Within the rear yard, all vehicle wheels shall be located on the residential driveway surface and/or parking pad.
2. Outdoor parking of boats or boat trailers greater than twenty-six (26) feet are prohibited in the rear yard.

(Ord 146-24, §1, 11-6-24)

(f) ***Residential driveway, driveway extension and parking pad regulations.***

- (1) *Exemptions.* Circular or looped residential driveways are exempt from the provisions of this subsection but must comply with the provisions listed under Section 23-43(f)(2) and Section 23-43(f)(3)a., b., c., d. and j.

(2) *Permit application procedure.*

a. Building and Street Excavation Permit Application(s).

1. Before construction, and expansion of a residential driveway or parking pad on private property, a completed Building Permit application and fee must be filed with the Building Inspections Supervisor or their designee; and
2. Before construction, repair, replacement, or removal of any sidewalk, driveway apron, carriage walk, curb and gutter, or surfacing within the public right-of-way, a completed Street Excavation Permit application and fee must be filed with the Department of Public Works, Engineering Division for review and approval.

If required, the Street Excavation Permit shall be approved by the Department of Public Works, Engineering Division prior to the issuance of a Building Permit.

3. The above referenced applications shall describe the nature of the work, materials to be used, measurements, plans and/or specifications of the residential driveway, driveway extension or parking pad as well as such other information as may be required by the Building Inspections Supervisor, City Engineer or their designee.

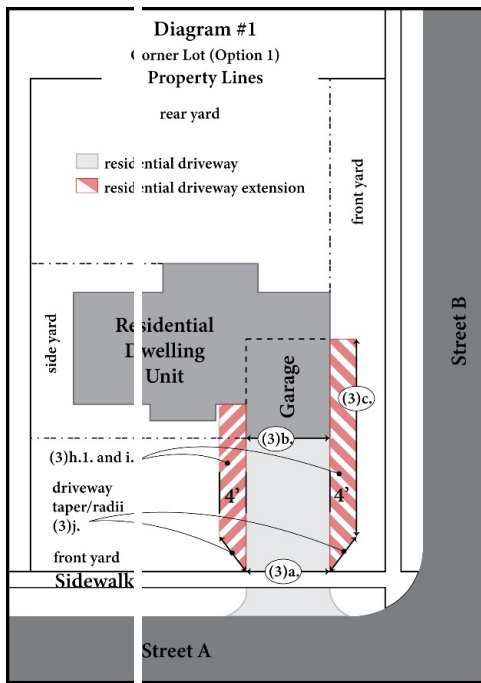
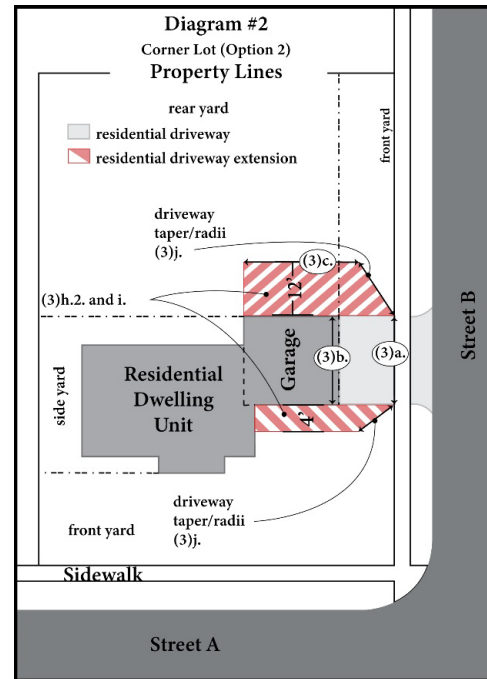
b. Building Permit Application Submittal, Acceptance and Review. After the submittal and acceptance of a complete application by the Building Inspections Supervisor or their designee, the proposed plans and

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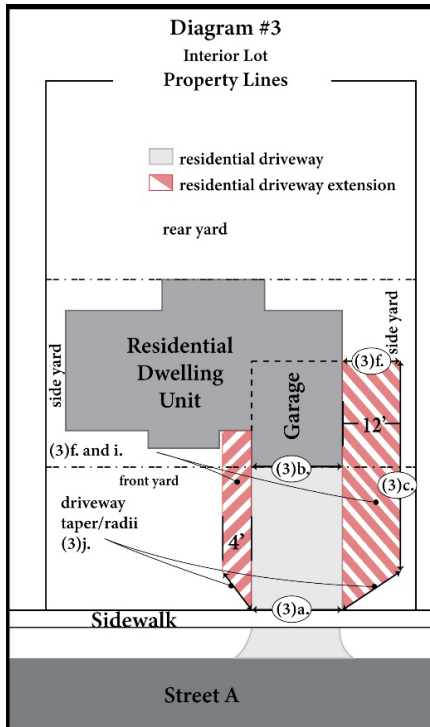
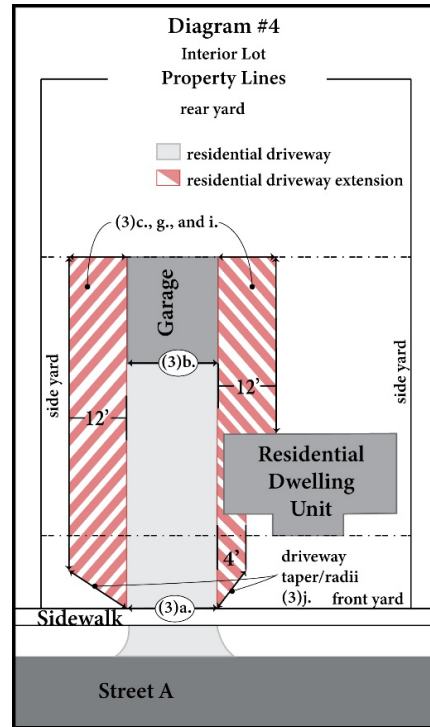
specifications shall be reviewed for compliance all applicable provisions of this chapter and other City of Appleton Municipal Code provisions, and applicable policies.

1. Thereafter, the Building Permit shall be approved, approved with conditions or denied with reasons why the Building Permit cannot be issued.
- c. Building Permit Denial and Appeal. The applicant may appeal the Building Inspections Supervisor's or their designee's decision pursuant to Section 23-67 of this Chapter.

(3) Residential driveway and driveway extension dimensions, design and location standards.



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- a. Maximum residential driveway width at the front lot line. Shall not exceed 40% of the lot width dimension where the residential driveway is located or a maximum of 40 feet wide at the front lot line, whichever is less.
- b. Maximum residential driveway width beyond the front line. The residential driveway shall not exceed the width of a garage or carport it serves (horizontal distance measured between the exterior side walls along the front of the garage or carport).
- c. Length. The length of a residential driveway and driveway extension on interior, corner and double frontage lots shall not extend beyond the depth of the garage or carport. When a garage or carport is not present see Section 23-43(f)3.e. below.
- d. Surface Materials. Both the entire width and length of a residential driveway and driveway extension shall be improved with concrete, asphalt, brick pavers or another permeable hard surface. Gravel material is prohibited.
- e. Garage not present. If a garage is not present on the residential lot, a residential driveway shall be constructed leading directly from the street to a side yard or rear yard the purpose of complying with Section 23-172(m) required spaces for specified uses and be subject to the following requirements:
 1. Side yard parking area. The minimum requirements of Section 23-43(f)(3)a., d., i. and j. of this subsection shall apply. A driveway extension no wider than 12 feet may be constructed into the side yard adjacent to the side of the residential dwelling and no wider than 4 feet in front of the residential dwelling. The length of the residential driveway and driveway extension shall not extend beyond the depth of the residential dwelling, unless constructing a rear yard parking area in accordance with the following requirements:
 2. Rear yard parking area. The minimum requirements of Section 23-43(f)(3)a., d., i. and j. of this subsection and Section 23-50(d)(4) [double frontage lot exception] shall apply.

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- f. Driveway extension. Maximum width (attached garage or carport) on interior and double frontage lots. A driveway extension no wider than 12 feet may be constructed into the side yard adjacent to the side of the attached garage or carport and no wider than 4 feet in front of the residential dwelling.
- g. Driveway extension. Maximum width (detached garage or carport) on interior, corner and double frontage lots. A driveway extension no wider than 12 feet may be constructed into the side or rear yard adjacent to the side of the detached garage or carport and no wider than 4 feet in front of the residential dwelling.
- h. Driveway extension. Maximum width (attached garage or carport) on corner lots.
 - 1. **Option 1:** A driveway extension no wider than 4 feet on both sides of the driveway may be constructed into the front yard; or
 - 2. **Option 2:** A driveway extension no wider than 12 feet may be constructed into the side or rear yard adjacent to the side of the attached garage or carport and no wider than 4 feet in front of the residential dwelling.
 - 3. Shall not be permitted to have both Options 1 and 2.
- i. Location. A driveway extension shall be located contiguous and parallel to the residential driveway.
- j. Taper/radii. Where the width of the driveway or driveway extension exceeds the existing width the residential driveway at the front lot line or maximum width requirement for a residential driveway at the front lot line, the driveway or driveway extension shall be tapered at an angle or have a curved radii from the front lot line.

(4) *Parking pad location and design standards.*

- a. Location. Parking pads may be permitted in the side and rear yard. Parking pads and are prohibited in the front yard.
- b. Materials. The parking pad shall be improved with concrete, asphalt, brick pavers, another permeable hard surface. Gravel material is prohibited.
- c. Parking pads shall not be connected or extended to the public right-of-way by a separate driveway opening.

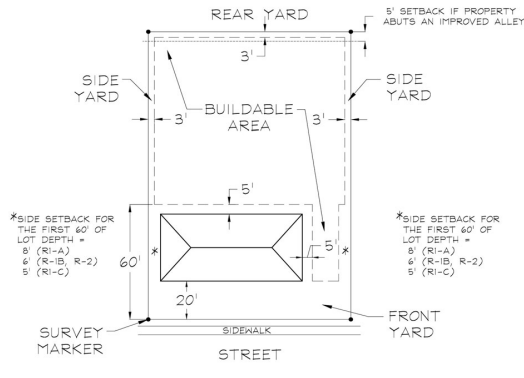
(g) ***Setback, height and lot coverage restrictions.*** Accessory buildings and/or structures, shall meet the following setback, height and lot coverage requirements:

(1) *Residential districts:*

- a. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain a five (5) foot separation from a principal building or any other accessory building and/or structure on the same lot.

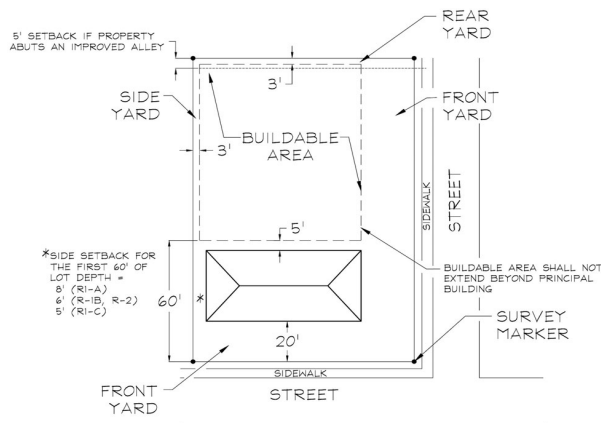
APPLETON CODE

BUILDABLE AREA FOR ACCESSORY STRUCTURES ON A TYPICAL INTERIOR LOT WITH FRONTAGE ON ONE STREET - RESIDENTIAL DISTRICTS



- b. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain the same side yard setback required of the principal building for the first sixty (60) feet of lot depth and a minimum of three (3) feet from the side lot line thereafter.
- c. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain a minimum setback of three (3) feet from the rear lot line, except along an improved public alley where a minimum of a five (5) foot setback is required.
- d. When not attached to the principal building, on corner lots, accessory buildings and/or structures, except for parking lots and driveways shall maintain a minimum of a three (3) foot setback from the side and rear lot line. However, for the yard that is abutting a street, the accessory building and/or structure shall meet the principal building front yard setback requirement of the abutting property.

BUILDABLE AREA FOR ACCESSORY STRUCTURES ON A TYPICAL CORNER LOT - RESIDENTIAL DISTRICTS



- e. When not attached to the principal building, accessory structures, except for parking lots and driveways shall be prohibited in the front yard, unless otherwise stated in this chapter.
- f. When not attached to the principal building, accessory structures, except for radio, television and satellite dish antennas, shall not exceed twenty (20) feet in height.

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- g. When not attached to the principal building, accessory structures that exceed fifteen (15) feet in height, shall be located on the lot in accordance with the setback requirements of the principal building, as established for the zoning district in which it is located.
- h. Detached accessory buildings shall not exceed fifteen (15) feet in height and shall not exceed one (1) story in height.
- i. Accessory buildings located on a R-1A, R-1B, R-1C or R-2 zoned lot shall comply with all of the following size requirements:
 - 1. Attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.
 - 2. Detached accessory buildings: the maximum total combined gross floor area of all detached accessory buildings including, but not limited to, detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be one thousand six hundred (1,600) square feet.
 - 3. Attached accessory buildings: the maximum total square footage allowed for all attached garages, attached carports or any attached accessory building may not exceed a total of one thousand six hundred (1,600) square feet or thirty-five percent (35%) of the total gross area of the principal building, whichever is greater.
 - 4. The total combined gross floor area of all attached garages, attached carports, and/or detached accessory buildings including, but not limited to, detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed the total gross floor area of the principal building.
- j. Accessory structures located on a R-1A, R-1B, R-1C or R-2 zoned lot shall comply with the following size requirements:
 - 1. Accessory structures including, but not limited to parking lots, driveways, patios, decks, tennis courts, basketball courts or other similar courts and swimming pools shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.
- k. Accessory buildings located on a R-3 zoned lot shall comply with all of the following size requirements:
 - 1. Attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.
 - 2. The maximum total combined gross floor area of all attached garages, attached carports, and/or all detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed fifteen percent (15%) of the lot area.
 - 3. The total combined gross floor area of all attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed the total gross floor area of the principal building(s).

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l. Accessory structures located on a R-3 zoned lot shall comply with the following size requirements:

1. Accessory structures including but not limited to dumpster enclosures, parking lots, driveways, patios, decks, tennis courts, basketball courts or other similar courts and swimming pools shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.

(2) *Non-residential districts:*

- a. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall maintain a minimum five (5) foot setback from the side and rear lot lines unless abutting a residential district. When abutting a residential district, the setback for side and rear lot lines shall be a minimum of the accessory building or structure height.
- b. Accessory buildings located on an AG, P-I, NC, C-O, C-1, C-2, CBD, P, M-1, or M-2 zoned lot shall comply with all of the following size requirements:
 1. Attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.
 2. The maximum total combined gross floor area of all attached garages, attached carports, and/or all detached accessory buildings including but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed twenty-five percent (25%) of the lot area.
 3. The total combined gross floor area of all attached garages, attached carports, and/or detached accessory buildings including, but not limited to detached garages, detached carports, tool/garden sheds, storage sheds, gazebos or pool houses shall not exceed the total gross floor area of the principal building(s).
- c. Accessory structures located on a AG, P-I, NC, C-O, C-1, C-2, CBD, P, M-1, or M-2 zoned lot shall comply with the following size requirements:
 1. Accessory structures including, but not limited to loading docks, refuse containers, dumpster enclosures, parking lots, driveways, patios, decks, tennis courts, basketball courts or other similar courts, and swimming pools shall be included in the calculation of lot coverage and shall not exceed the maximum lot coverage percentage as established for the applicable zoning district.
- d. When not attached to the principal building, accessory buildings and/or structures in non-residential districts shall not exceed twenty-five (25) feet in height.
- e. When not attached to the principal building, accessory buildings and/or structures, except for parking lots and driveways shall be prohibited in the front yard, unless otherwise stated in this chapter.

(Ord 121-05, §1, 10-25-05, Ord 89-08, §1, 5-27-08; Ord 117-08, §1, 6-24-08; Ord 122-08, §1, 8-12-08; Ord 143-08, §1, 10-7-08; Ord 84-09, §1, 6-23-09; Ord 46-12, §1, 6-6-12; Ord 145-24, §1, 11-6-24; Ord 147-24, §1, 11-6-24; Ord 148-24, §1, 11-6-24)

Sec. 23-44. Fences and walls.

- (a) ***Fences and walls.*** Fences and walls are subject to the provisions of this section.

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(1) *Height*

The height of fences and walls shall be measured at grade, except as follows. Height may be measured two (2) inches above grade to allow for proper drainage and prevent rot of materials, when deemed appropriate by the Inspections Supervisor or designee. Berms may not be used to increase grade directly under a fence, unless otherwise stated in this chapter. Posts and post caps may project a maximum of four (4) inches above required fence height.

- a. **Boundary fence.** A boundary fence or wall shall not be more than six (6) feet in height in residential districts and not more than twelve (12) feet in commercial and industrial districts, except that hedges may be permitted to grow to their natural height. No boundary fence or wall, including a hedge or row planting, shall be permitted in excess of three (3) feet in height between the front yard setback line and the abutting lot lines, unless otherwise stated in this chapter.
- b. **Sound barrier fence or wall on an arterial/collector roadway.** A sound barrier fence or wall may be erected on a residential property, along the access-restricted lot line abutting an arterial or collector street. It shall not exceed eight (8) feet in height for double frontage lots and not exceed six (6) feet for corner lots, except in the vision corner.
- c. **Sound barrier fence or wall on a freeway.** A sound barrier fence, wall or combination of fence and berm or wall and berm may be erected along the yard abutting a freeway. It shall not be more than twenty (20) feet in height, as measured from the grade of the adjacent freeway. Plans from a state certified engineer/architect that assure structural integrity may be required for fences higher than eight (8) feet

(2) *Materials.*

- a. Barbed wire fences, electrical fences, and single, double and triple strand fences are prohibited except in the AG agricultural, M-1 and M-2 industrial districts.
- b. For all zoning districts other than AG, fence material must be either naturally resistant or treated wood board, vinyl, galvanized and/or vinyl coated chain link material, wrought iron, brick, natural stone, masonry, or other material as approved by the Community Development Director. Chain link fence slats are subject to provisions of this ordinance.
- c. Fences and walls located in the front yard must be made of materials such as wood, brick, vinyl, wrought iron, or stone. Galvanized chain link material is prohibited in the front yard.
- d. The finished side of the fence shall be erected to face the adjoining property. The side with protruding studs or posts shall face the building of the lot responsible for the erection of the fence.
- e. Fences used for screening purposes for non-residential uses shall be subject to Crime Prevention Through Environmental Design (CPTED) standards. CPTED standards are reviewed and are available through the Appleton Police Department.

(3) *Exceptions.*

Protective security and boundary fences on industrial sites, publicly owned lands or semi-private lands such as places of worship, educational institutions, utility substations, etc. are excluded from the provisions of this section, except that where such fences incorporate the use of barbed wire, such barbed wire shall not be less than seven (7) feet above the ground level, and except such fences shall be a minimum of two-thirds (2/3) open to vision equally distributed throughout the fence length, and maintain allowable height when located within the defined vision corner.

- (4) **Setback.** No fence shall extend closer than five (5) feet from the right-of-way line of an improved public alley.

(5) ***Vision corner.*** Fences and walls shall comply with vision corner requirements of §23-50(g), Vision corner.

(6) ***Maintenance.*** Both the fence and the property surrounding both sides of the fence shall be properly maintained at all times.

(Ord 61-94, §5, 5-18-94; Ord 161-94, §1, 12-21-94; Ord 58-95, §1, 5-3-95; Ord 76-95, §1, 6-21-95; Ord 72-96, §1, 8-7-96; Ord 106-96, §1b, 11-6-96; Ord 25-98, §1, 3-18-98, Ord 27-99, §1, 4-24-99; Ord 121-05, §1, 10-25-05; Ord 28-20, §1, 3-25-20)

Sec. 23-45. Home occupations.

(a) ***Purpose.*** The purpose of this section is to provide regulations for limited non-residential uses that are conducted by an occupant of a dwelling which are compatible with the surrounding residential properties.

(b) ***Permit required.*** A home occupation permit is required for all home occupations conducted in an attached or detached garage pursuant to the procedures set forth in this section prior to the establishment of a home occupation.

(c) ***Permit application.*** Applications for home occupations conducted in an attached or a detached garage shall be filed with the Community Development Department on the forms available in the Community Development Department.

1. Each application shall be accompanied by a scaled site plan drawing showing the property lines and dimensions, location of all existing buildings/structures, location and number of on-site parking spaces for customers, employee and residence vehicles and the location and size of the home occupation.
2. Other information and plans as may be required by the Community Development Director or designee to determine whether a home occupation permit application should be approved, conditionally approved, or denied. The Community Development Director or designee may also authorize omission of any information or plans if he or she finds they are not necessary.

(d) ***Action upon acceptance of a permit application.***

- (1) After acceptance of a complete application, the Community Development Director or designee shall forward each application for a home occupation permit to the Inspections Division, Health Department, Fire Department, and Police Department. An authorized representative from each department shall review each application for a home occupation, insofar as the application relates to their respective department's duties based upon the City of Appleton Municipal Code, to determine whether the application for a home occupation complies with the ordinances and laws applicable thereto. These representatives shall furnish the Community Development Director or designee, in writing, their recommendation as to whether an application for a home occupation should be approved, approved conditionally, or denied within five (5) business days after the application has been accepted by the Community Development Director or designee.
- (2) Within ten (10) business days after acceptance of a complete application and after notification to the City departments listed above, the Community Development Director or designee shall approve, approve with conditions, deny such home occupation permit.
- (3) If there is recommendation for denial, the Community Development Director or designee shall reject such home occupation permit in writing to the applicant stating the reasons for denial.

(e) ***Permit not transferable.*** The home occupation permit shall not be transferred to any individual, firm or another address, nor shall the permit authorize any person, other than the person named therein, to commence or carry on the home occupation for which the permit was issued.

(f) ***Violations; penalty.*** Failure to comply with the approved or conditionally approved home occupation permit or the provisions of this chapter, or failure to obtain a home occupation permit shall be a violation of this section. Administration and enforcement shall be as prescribed in §23-69 of this chapter.

(g) ***General regulations.*** All home occupations shall comply with the following standards:

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- (1) **Location.** A home occupation shall be clearly incidental and subordinate to the use of the premises as a dwelling, and shall be conducted entirely within the residential dwelling unit or entirely within either the attached or detached garage, but not both by a member of the family residing on the premises.
- (2) **Square footage of the home occupation.**
 - a. **When located within the dwelling.** The total area used for the home occupation within the dwelling shall not be more than three hundred (300) square feet or thirty percent (30%) of the habitable dwelling area, whichever is less.
 - b. **When located within a detached or attached garage.** The total area used for the home occupation shall take up no more than three hundred (300) square feet or thirty percent (30%) of the gross floor area of the attached or detached garage, whichever is less.
- (3) **No change to the character of the dwelling unit or garage.** No internal or external alterations or construction of the premises are involved, including the creation of a separate or exclusive business entrance, and there shall be no other exterior indication that a home occupation exists, except as provided in this section.
- (4) **Nuisances.** No equipment shall be used which creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-rays or electrical disturbance to radio or television transmission in the area that would exceed what is normally associated with a residential use.
- (5) **Vehicle restrictions.** Only one (1) vehicle shall be permitted to be located at the residence in conjunction with the home occupation. The home occupation vehicle must be of a type ordinarily used for conventional passenger transportation (i.e., passenger automobile or vans and pickup trucks not exceeding a payload capacity of one (1) ton).
- (6) **Outdoor display or storage.** No outdoor display or storage of materials, goods, supplies or equipment shall be allowed at the residence in conjunction with the home occupation.
- (7) **Sign restrictions.** A home occupation use shall be limited to one (1) non-illuminated wall sign that does not exceed two (2) square feet in area.
- (8) **On-premise sales/rental.** Sale and/or rental of products is permitted on an appointment basis only.
- (9) **Employee restrictions.** Only one (1) person may be employed on the site in connection with the home occupation who is not an actual resident of the dwelling unit.
- (10) **Client visitation restrictions.** There shall be no business visits and/or nonresident worker arrivals or departures allowed before 8:00 a.m. or after 8:00 p.m. Clients in conjunction with the home occupation will be limited to no more than ten (10) per day. No more than two (2) clients may visit at one (1) time.
- (11) **Off-Street parking requirements.**
 - a. Off-street parking spaces shall be available for clients and employees.
 - b. Off-street parking spaces for the dwelling shall be maintained as required by this chapter.
- (12) **Deliveries.** Deliveries to the home occupation shall be made by passenger vehicles, mail carriers, or step vans (UPS, Federal Express).
- (13) **Garage operation restrictions.** All doors and windows of the attached or detached garage shall be kept closed at all times during the hours of operation of the home occupation, except when entering and exiting.

(h) **Permitted home occupations.** A home occupation may include or include similar uses such as the following, provided that the provisions of this chapter are met: professional office uses such as accountant, appraiser, architect, attorney, broker or agent (real estate, insurance, etc.) counselor, market research service, engineer, interior decorator, home

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crafts such as tailoring, sewing, dressmaking, quilting, making of jewelry or arts and crafts, artists and sculpting, blade sharpening of household hand and power tools such as mower blades, saw blades, drill bits, axes, chain saws, scissors, kitchen knives, or hedge clippers, office for contractor, handyperson, landscape contractor, tutoring of individuals, music instruction, direct sale product distribution (Avon, Tupperware, etc.), internet consulting and/or sales or writers.

(i) ***Prohibited home occupations.*** A home occupation shall not include or include similar uses such as the following: barbershops, beauty shops, service, repair, or painting of automobiles, trailers, recreational vehicles, boats, and snowmobiles, paint shops, welding, antique shops, landscaping businesses, medical clinics, retail food or wholesale food establishments requiring a state license, small engine repair, appliance repair or resale, palm reading, nail salon, pet grooming, kennels, hair wrapping, acupuncture, tattoo and body piercing, fitness center, aerobic exercise studios, restaurants or massage therapy. This list is illustrative, not exhaustive of all prohibited uses.
(Ord 61-94, §5, 5-18-94; Ord 121-05, §1, 10-25-05; Ord 29-11, §1, 1-25-11)

Sec. 23-46. Outdoor storage and display in non-residential districts.

The following regulations shall apply to outdoor storage or displays in non-residential districts:

(a) The outdoor display of goods including items such as firewood and mulch shall be controlled by the following regulations:

- (1) The outdoor display of merchandise shall not interfere with off-street parking spaces or the safe and unobstructed use of vehicular, emergency, or pedestrian access ways or walkways.
- (2) The outdoor display of merchandise outside of the adjacent building shall not be located in any required setback on the lot.
- (3) Outdoor display of merchandise shall not be displayed at a height greater than seven (7) feet from the surface on which the merchandise is being displayed, except when the outdoor display of merchandise is displayed on a shelving or storage rack system.
- (4) All permitted outdoor display shall be maintained in a neat and orderly fashion.

(b) The outdoor storage of business property, goods, wares or merchandise that is not located in a specific area for customer viewing or immediate sale shall be controlled by the following regulations:

- (1) The outdoor storage areas shall not interfere with off-street parking spaces or the safe and unobstructed use of vehicular, emergency, or pedestrian access ways or walkways.
- (2) Outdoor storage areas shall not be located in any established front yard, required side or rear setback area on the lot. However, in the case of a double frontage lot, outdoor storage may be located in the established front yard opposite the front yard from which the principal structure is addressed.
- (3) Outdoor storage areas shall be required to be screened with an alternating board on board fence, chain link fence with tubular PDS slats or a wall. Such PDS slats or wall shall complement the exterior color of the principal building.
- (4) All permitted outdoor storage shall be maintained in a neat and orderly fashion.

Sec. 23-47. Refuse container and dumpster enclosure standards.

The following standards shall apply to refuse container and dumpster enclosures:

(a) Refuse containers of appropriate size are required for all non-residential and multifamily properties. Refuse containers and dumpster enclosures are exempt from Section 23-43(d)(5) and Section 23-50(d)(4).

ZONING

(b) Refuse containers shall be screened from public view, unless otherwise specified in this chapter, and located in accordance with the standards outlined in this section.

(c) Refuse containers and dumpster enclosures located on an AG, R-3, P-I, NC, C-O, C-1, C-2, CBD, P, M-1 or M-2 zoned lot shall comply with the following location and setback requirements:

(1) Location:

- a. Side and rear yard, unless otherwise specified in this chapter.
- b. Refuse containers and dumpster enclosures are allowed to be placed within the front yard adjacent to a public alley.
- c. Refuse containers and dumpster enclosures can be placed on a parking lot, even if it is a separate parcel, that is associated with, or adjacent to, the principal use.
- d. Refuse containers and dumpster enclosures may be shared between adjacent properties.
- e. Refuse containers and dumpster enclosures are not permitted on vacant properties that do not have an established principal use.
- f. On corner lots and double frontage lots, if it is demonstrated that it is impractical to place the dumpster enclosure in the side or rear yard, the Community & Economic Development Director can approve the enclosure to be located in the front yard. The dumpster enclosure shall meet the front yard setback requirement of the principal structure.

(2) Setbacks:

- a. AG, R-3, P-I, NC, C-O, C-1, C-2, P, M-1 or M-2 zoning districts: minimum five (5) foot setback from the side and rear lot lines.
- b. CBD zoning district: none
- c. Dumpster enclosures placed within the yard facing a public alley shall have a minimum five (5) foot setback from the public right-of-way.
- d. Dumpster enclosures attached to the principal structure shall meet the setback requirements for the principal structure.

(3) Refuse containers and/or dumpsters shall be screened accordingly:

- a. Materials used for screening the refuse containers and/or dumpsters shall be alternating board on board fence, chain link fence with slats, brick, masonry, staggered evergreens or equivalent material to sufficiently screen the refuse containers and/or dumpster(s).
- b. The height of the screening materials must be sufficient to screen the refuse containers and/or dumpsters.
- c. Refuse containers and/or dumpsters located adjacent to public alleys are not required to be screened.
- d. Refuse containers and/or dumpsters shall be placed on a paved surface.

(Ord 119-23, §1, 10-10-23)

Sec. 23-48. Bed and breakfast establishments.

Bed and breakfast establishments shall only be located within and accessory to an owner occupied single-family detached home.

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- (a) Bed and breakfast establishments shall comply with all local, county and state fire and health regulations.
- (b) The bed and breakfast establishment shall be owner occupied at the time of rental.
- (c) The operation of a bed and breakfast establishment shall not be considered or classified as a home occupation.
- (d) A bed and breakfast establishment with four (4) or less guestrooms for rent is permitted.
- (e) A bed and breakfast establishment with five (5) to a maximum of eight (8) guestrooms can be permitted with a Special Use Permit per §23-66.
- (f) No ancillary commercial use shall be operated in connection with an approved bed and breakfast establishment.
(Ord 110-07, §1, 6-26-07)

Sec. 23-49. Drive through facility.

(a) ***Site Design.***

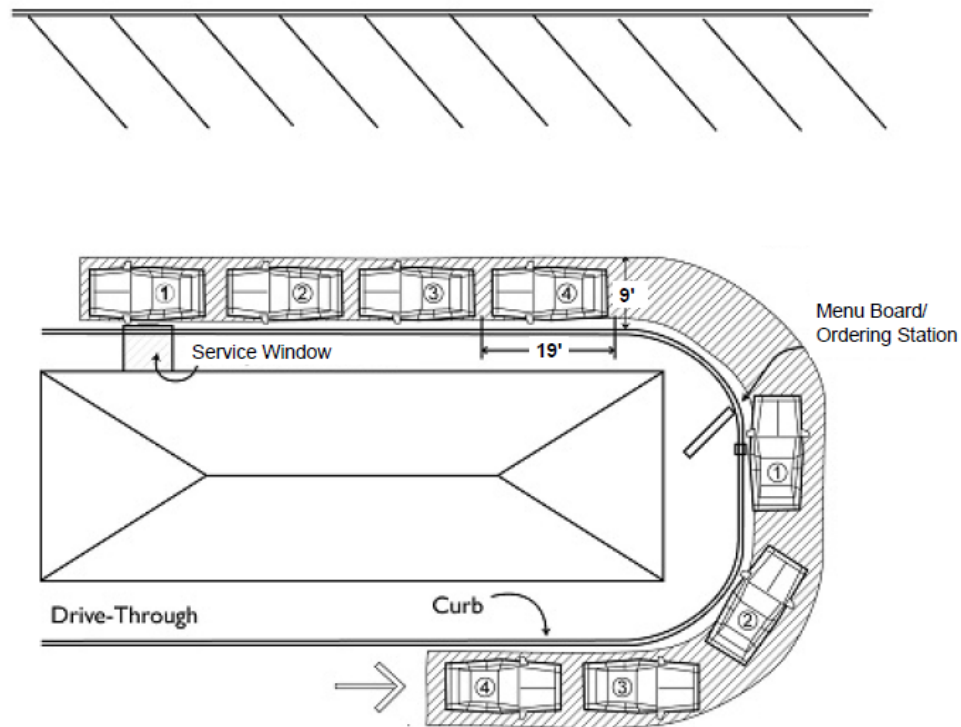
- (1) ***Stacking and drive through lanes identified.*** All stacking and drive through lanes shall be identified by asphalt or concrete curbing and/or paint striping.
- (2) The design of maneuvering and stacking aisles for the drive through shall not interfere with circulation or visibility for traffic either on or off site.
- (3) ***Landscaping of stacking spaces.*** When stacking spaces abut a residential zoning district, the entire length of the stacking spaces shall be fully screened. Screening materials shall consist of at least one row of staggered evergreen trees or shrubs, at least two (2) to three (3) feet high at the time of planting.
- (4) ***Pedestrian traffic.*** Stacking spaces and stacking lanes should avoid conflicts with on-site pedestrian traffic between the parking lot and the building(s) entrances. When impractical to avoid, a marked crosswalk shall be provided. These crosswalks shall be delineated by paint striping, raised walkways, or alternative materials as approved by the City.

(b) ***Stacking spaces.*** Stacking spaces shall be a minimum of nine (9) feet wide by nineteen (19) feet in length. Uses that include drive through service shall provide the following minimum number of stacking spaces:

- (1) Financial institutions, drive-through convenience retail, pharmacies or other similar drive through uses: 3 (three) stacking spaces per drive through service window.
 - (2) Drive through restaurants with ordering stations and service windows:
 - a. Four (4) stacking spaces for each ordering station.
 - b. Four (4) stacking spaces between the furthest service window and the ordering station.
 - (3) Car wash:
 - a. Self-service – Three (3) stacking spaces for each washing bay.
 - b. Drive-in automatic – Six (6) stacking spaces for each washing bay, located behind the car wash entrance.
- (Ord 131-23, §1, 10-10-23)

ZONING

Drive through graphic



Sec. 23-50. Dimensional exceptions and modifications.

(a) **Purpose.** Height, area exceptions and modifications set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this chapter.

(b) **General area exceptions and modifications.** The area and setback requirements heretofore established shall be adjusted in the following cases:

- (1) Every part of a required yard shall be open to the sky, unobstructed by a building, except for accessory structures in a side or rear yard, and except for ordinary projection of sills, belt courses, cornices and ornamental features, roof overhangs, eaves, bay windows, chimneys, and gutters not to exceed twenty-four (24) inches.
- (2) Open or lattice enclosed fire escapes, required by law, and handicap access ramps may project into a required setback. The ordinary projection of chimneys and pilasters shall be permitted by the Inspections Supervisor, when placed so as not to obstruct light and ventilation.
- (3) Terraces, uncovered porches, uncovered stairs, decks and ornamental features no greater than forty (40) square feet may project into a required yard, provided these projections do not extend more than three (3) feet above the floor level of the ground (first) story and are at least four (4) feet from the adjacent side lot line.
- (4) Where a single building on a lot or tract is converted to condominium ownership, area and setback standards will apply to the original conforming lot or tract and not to individual ownership.
- (5) Where an earthen berm is constructed separately or against a structure, the height of the berm relative to surrounding elevations cannot exceed three (3) feet at any point on the property unless such berm is first approved as part of a site plan submitted for §23-570, Site plan review and approval.

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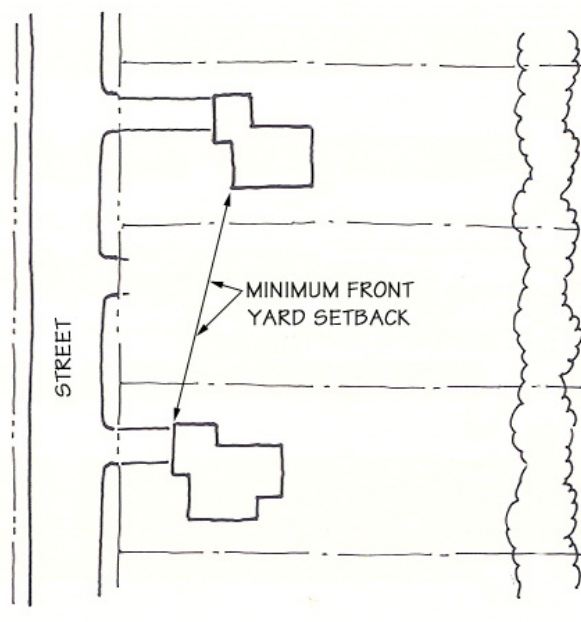
(c) **Height.** The height required heretofore shall be adjusted in the following cases:

- (1) Educational institutions, public facilities, places of worship and other similar type institutions may be erected to a height not exceeding eighty-five (85) feet in any district in which they are permitted, provided:
 - a. In the P-I District, the regulations of §23-100(h)(4) – (6) shall be followed.
 - b. In all other districts, front and rear yards shall be increased in depth, and side yards shall be increased in width one (1) foot for each foot of height that the building exceeds the height regulations of the district in which it is located.
- (2) The height regulations prescribed heretofore shall not apply to grain elevators, place of worship spires, belfries, monuments, tanks, water and fire towers, stage towers or scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smoke stacks, conveyors, radio towers and flag poles.

(d) **Front yards.** The front yards heretofore established, with the exception of front yards in corner lots, shall be adjusted in the following cases:

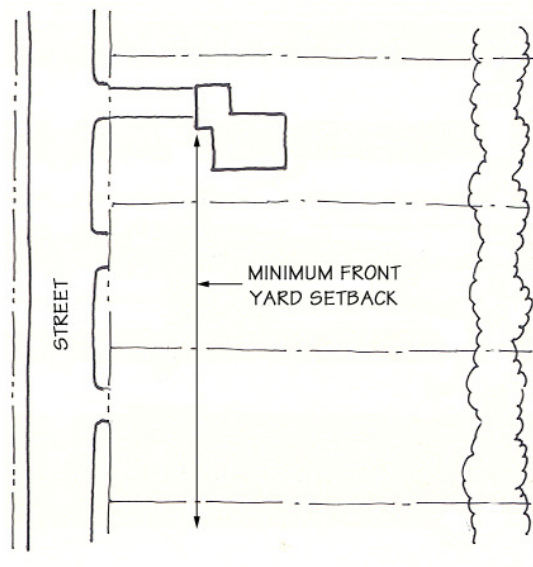
- (1) If a lot is within one hundred (100) feet of existing buildings on both sides of the lot, the minimum front yard setback shall be a straight line drawn from the two (2) closest front corners of the adjacent building on each side; or
- (2) If a lot is within one hundred (100) feet of an existing building on one (1) side only, the setback shall be the same as the adjacent building; or
- (3) If a lot is more than one hundred (100) feet from an existing building on either side, then no reduction may be applied to the front yard setback.

Example: Lot within 100 feet of two buildings.



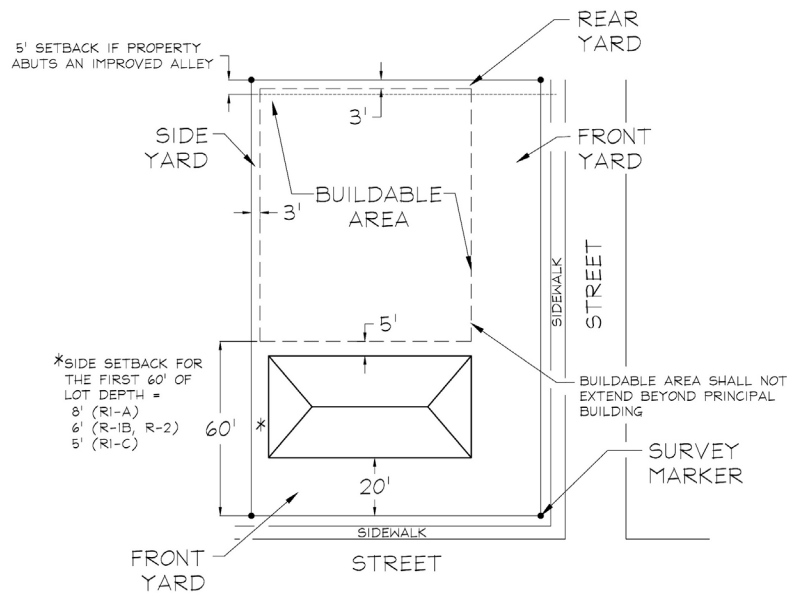
ZONING

Example: Lot within 100 feet of one building.



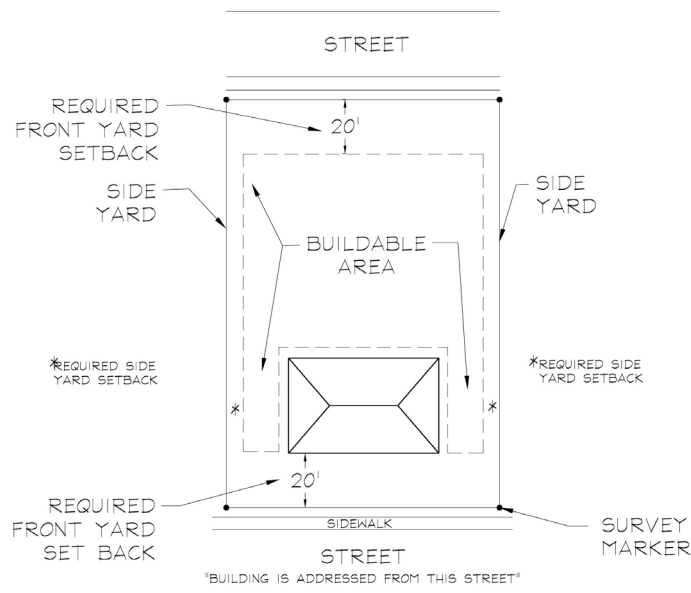
- (4) Where a lot is a double frontage lot, any detached accessory structure may be permitted in the yard opposite the front yard from which the principal structure is addressed. Furthermore, the accessory structure shall meet the front yard and side yard setback requirement of the principal structure.

BUILDABLE AREA FOR ACCESSORY STRUCTURES ON A TYPICAL CORNER LOT - RESIDENTIAL DISTRICTS



APPLETON CODE

BUILDABLE AREA FOR ACCESSORY STRUCTURES ON A LOT WITH FRONTAGE ON TWO STREETS



(e) **Side yards.** The side yards heretofore established, may be adjusted in the following cases:

- (1) For the purpose of the side yard regulations, a two- (2-) family dwelling shall be considered as one (1) building occupying one (1) lot.
- (2) Side yard setbacks are not required on the connected sides of a unified building development such as a multi-tenant building.

(f) **Rear yards, corner lots of record.** If a corner lot of record is less than one hundred (100) feet in depth, the required rear yard setback may be reduced, not to exceed fifty percent (50%) of the total minimum required rear yard setback.

(g) **Vision corner.** Vegetation or structures on private property (as per requirements of City Traffic Code, Chapter 19):

- (1) **Street corner.** No owner or occupant of any property abutting a public street shall permit any trees, shrubs, bushes, weeds, signs, structures, walls or fences on his property to be so placed and maintained as to obstruct the vision of a user of the street at its intersection with another street or public thoroughfare. There shall be a vision corner on all corner lots located in zoning districts that require a minimum twenty (20) foot setback from street property lines. The vision corner is described as the triangular area enclosed by a straight line connecting a point on each street right-of-way line, which point is twenty-five (25) feet from the intersection of the right-of-way lines. Fences, walls, signs or structures erected in such vision corners shall not exceed three (3) feet in height. Plantings in such vision corners shall be maintained in such a fashion as to provide unobstructed vision from three (3) feet above the adjacent property line elevation to ten (10) feet above the adjacent property line elevation.
- (2) **Private Driveway.** No owner or occupant of any property abutting a public street shall permit any trees, shrubs, bushes, weeds, signs, structures, walls or fences on his property to be so placed and maintained as to obstruct the vision of a user of the driveway, street, or public thoroughfare. There shall be vision triangles on all driveways located in zoning districts that require a minimum ten (10) foot setback from street property lines. The vision corner is described as the triangular area enclosed by a straight line connecting the point ten

ZONING

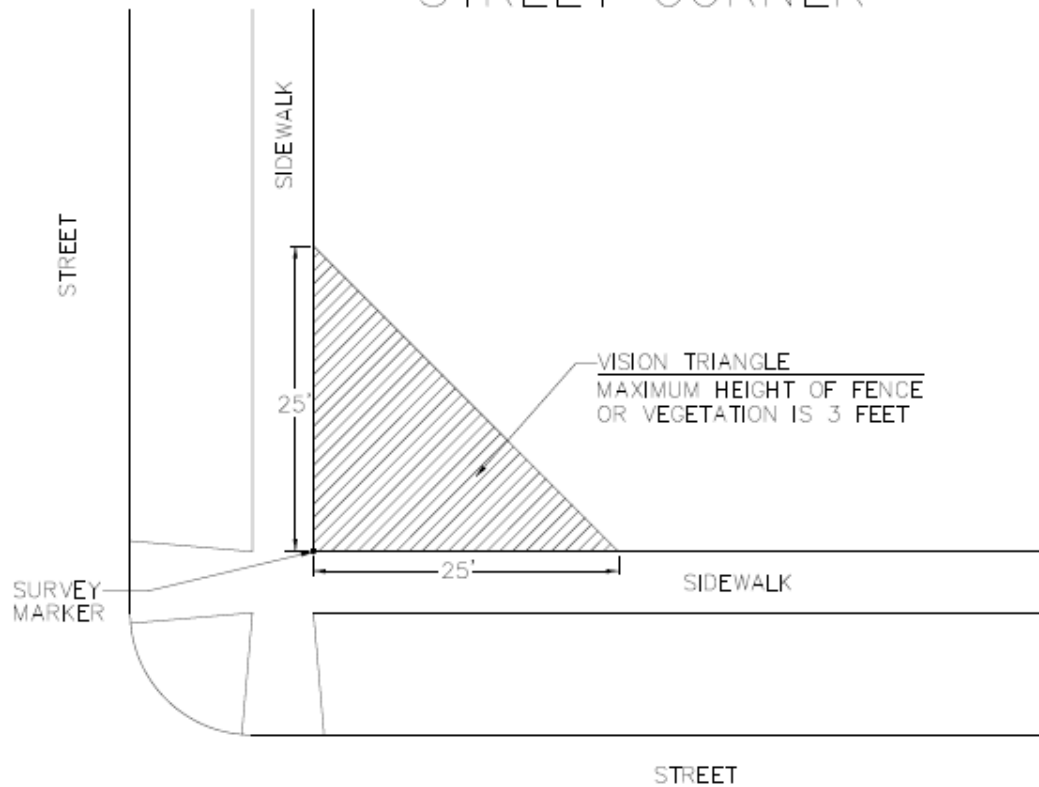
(10) feet from the intersection of the street-right-of-way and private driveway. Fences, walls, signs or structures erected in such vision corners shall not exceed three (3) feet in height. Plantings in such vision corners shall be maintained in such a fashion as to provide unobstructed vision from three (3) feet above the adjacent property line elevation to ten (10) feet above the adjacent property line elevation.

- (3) The provisions above also apply to those corner lots located in zoning districts that require a ten (10) foot setback from street property lines, except in those cases the vision corner is described as the triangular area enclosed by a straight line connecting a point on each street right-of-way line, which point is twenty (20) feet from the intersection of the street right-of-way.

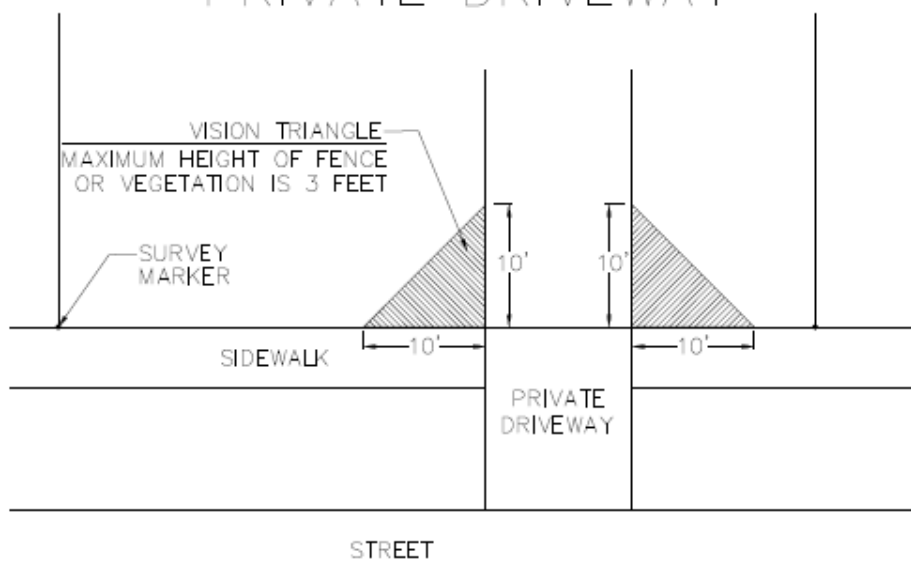
(Ord 2-20, §1, 3-25-20)

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VISION TRIANGLE AT STREET CORNER



VISION TRIANGLE AT PRIVATE DRIVEWAY



ZONING

Sec. 23-51. Zoning with design requirements.

(a) No single-family or two- (2-) family dwelling shall be erected or installed in any zoning district within the City of Appleton unless the structure is set on a full basement or other permanent enclosed foundation which meets the standards set forth in subchapters III, IV and V of Ch. ILHR 21, Wis. Adm. Code and all site construction is in compliance with Chapters ILHR 21-25, Wis. Adm. Code, the Uniform Dwelling Code.

(b) In addition to (a) above, residential structures must conform to the following:

- (1) A one (1) story structure shall have a minimum living area of at least nine hundred (900) square feet and a two (2) story structure shall have a minimum first floor living area of at least seven hundred (700) square feet;
- (2) Minimum width (i.e., the short side) of every dwelling shall be at least twenty-five (25) feet. Attached garages, carports and open decks shall not be included in the measurement of the width of the dwelling;
- (3) The structure shall have a minimum of 4/12 pitched roof on a minimum of seventy-five percent (75%) of the structure;
- (4) All dwellings shall be placed on an enclosed permanent foundation that does not extend more than twelve (12) inches of exposed concrete foundation above the exterior finished grade of the lot. An exception is when the grade of the lot slopes, in which case only that portion of the foundation which is on the highest point of the lot must meet the requirements of this paragraph.

(c) The Board of Appeals may not grant any variance from the requirements of (a). The Board of Appeals may grant a variance from the requirements of (b) only if the Board of Appeals specifically finds that the architectural style proposed provides compensating design features and that the proposed dwelling will be compatible and harmonious with other dwellings in the vicinity.

(d) Single-family and two- (2-) family dwellings that do not meet the above requirements as of November 19, 1995, are considered to be in conformity.
(Ord 118-95, §1, 11-15-95)

Sec. 23-52. Community living arrangements (CLA) and other living arrangements.

(a) **Purpose.** This section is intended to ensure that:

- (1) All community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance provide a living environment for their residents which is as homelike as possible and is the least restrictive of each resident's freedom as is compatible with the resident's need for care and services;
- (2) The care and services a resident needs are provided to the resident;
- (3) Care and services are provided in such a manner that the resident is encouraged to move toward functional independence in daily living or to continue functioning independently to the extent possible; and
- (4) Community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance are dispersed throughout the community to assure the most appropriate environment for each facility and the neighborhood in which the facility exists.

(b) **General requirements.** The following requirements shall be reviewed by the Community Development Director and the Inspections Supervisor and shall regulate community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by

corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance within the City limits:

- (1) Prior to the issuance of a Certificate of Occupancy, the operator of the community living arrangement, adult family home (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance shall provide evidence to the Inspections Supervisor that a valid license has been or will be issued from the State of Wisconsin and/or another appropriate governmental unit.
- (2) For the purpose of this section, the location of a community living arrangement, an adult family home (B) operated by corporations, child welfare agencies, churches, associations or public agencies or an adult family home (C) operated by corporations, child welfare agencies, churches, associations or public agencies as defined by this ordinance shall be subject to the following requirements:
 - a. The total capacity of all community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family home (C) operated by corporations, child welfare agencies, churches, associations or public agencies within any aldermanic district may not exceed one percent (1%) of the total population of that aldermanic district. Exception to this requirement may be granted at the discretion of the City by a special use permit pursuant to §23-66 of this ordinance.
 - b. The total capacity of all community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family homes (C) operated by corporations, child welfare agencies, churches, associations or public agencies within the City may not exceed one percent (1%) of the total City population. Exception to this requirement may be granted at the discretion of the City by a special use permit pursuant to §23-66 of this ordinance.
- (3) All community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family home (C) operated by corporations, child welfare agencies, churches, associations or public agencies must be reviewed by the Division of Inspections and the Fire Department and receive the necessary permits from those departments.
- (4) The exterior of the community living arrangements, adult family homes (B) operated by corporations, child welfare agencies, churches, associations or public agencies and adult family home (C) operated by corporations, child welfare agencies, churches, associations or public agencies shall conform to the character of the residential dwellings in the neighborhood in which it is located. Furthermore, all new structures proposed shall be compatible with the surrounding neighborhood.

(Ord 121-05, §1, 10-25-05; Ord 82-07, §1, 5-8-07)

Sec. 23-53. Outdoor lighting.

(a) **Purpose.** All areas containing outdoor lighting, including, but not limited to, floodlighting, security lighting, event lighting or the lighting of off-street parking and loading areas shall comply with the requirements of this section.

Furthermore, it is the intent of the regulations of this section to establish lighting levels for various permitted uses that promote visual surveillance, reduce the potential for criminal activity and prevent the unnecessary glare of light on adjacent properties.

(b) **Lighting definitions.** The following terms are defined for this section:

- (1) **Foot-candle.** A unit of measure for illumination. A unit of illumination on a surface that is one (1) foot from a uniform point source of light of one (1) candle and equal to one (1) lumen per square foot.
- (2) **Full cut-off fixture.** A light fixture that, by design of the housing, does not allow any light dispersion or direct glare to shine above a ninety degree (90°) horizontal plane from the base of the fixture.

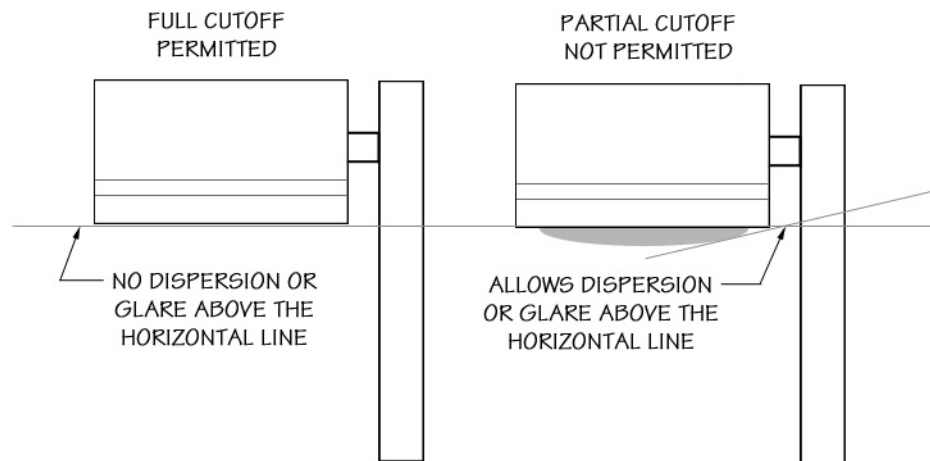
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- (3) **Horizontal foot-candle or luminance.** The measurement of brightness from a light source, usually measured in foot-candles or lumens, which is taken through a light meter's sensor at a horizontal position.
- (4) **Light trespass.** Light from an artificial light source that is intruding into an area where it is not wanted or does not belong.
- (5) **Lumens.** A unit of illumination, being the amount of illumination of a unit area of spherical surface, due to a light of unit intensity placed at the center of the sphere.
- (6) **Uplighting.** Any light source that distributes illumination above a ninety-degree (90°) horizontal plane.
- (7) **Security lighting.** Any light source used to illuminate a building, structure or property during evening hours that seeks to deter criminal activity.

(c) **Lighting standards, configuration and timing.**

- (1) All exterior lighting shall be of full cutoff design and directed downward and away from adjoining property, with luminaries shielded to prevent unnecessary glare as identified in the graphic on the next page.

Example of cutoff light fixtures



- (2) Trees and shrubs shall not interfere with the distribution of exterior lighting necessary for security purposes as required by this section.
- (3) Security lighting above building entrances, parking lots, off-street loading areas and service entrances shall be metal halide, LED, or another source, unless permitted otherwise during plan review, and incorporated in exterior areas going to and from the building(s) or use(s) within the site. (Ord 70-12, §1, 7-24-12)
- (4) All exterior fixtures, when used for security purposes, except for parking lot lighting, shall be illuminated from dusk until dawn, unless otherwise specifically designated on the site plan and as approved through the site plan process. All other exterior lighting that is not necessary for security purposes shall be turned off one (1) hour after the close of business.
- (5) Any exterior lighting device designed for security lighting shall be protected by weather and vandal-resistant covering, a managed light source for controlling the times of illumination and fully shielded and directed down to minimize glare and intrusiveness on adjacent properties or rights-of-way.

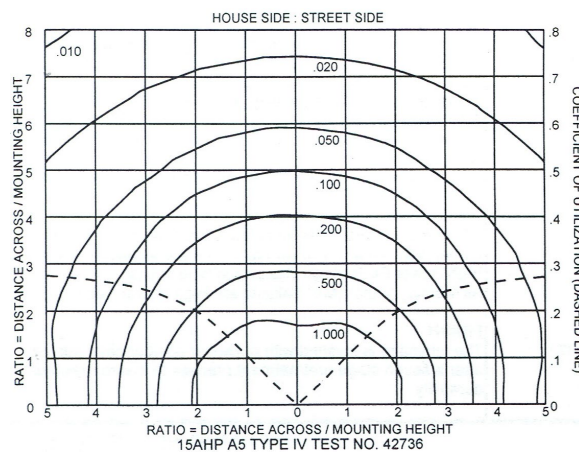
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- (6) Lighting in multi-level parking ramps shall be evaluated on a case-by-case basis to maximize safety and to minimize unnecessary glare to adjacent or nearby residential areas.

(d) **Lighting plan.** A lighting plan is required by this code. Such plan shall become an integral part of any site plan review application. No building permit shall be issued without first obtaining approval of a required lighting plan.

Details of exterior lighting shall be provided on a site plan as identified in §23-570, Site plan review and approval. Photometric calculations shall be detailed on an exterior lighting plan unless waived by the Community Development Director. Photometric calculations shall be based on the “mean” light output per the manufacturer’s values of the specified lamp and luminaire photometry data formatted on Illumination Engineering Society (I.E.S.) file complied by an approved testing laboratory. The details provided for exterior lighting shall include point-to-point photometric calculations at intervals of not more than ten (10) feet, at ground level, and may also be required at six (6) feet above ground level, depending on the applicable risk factors.

Example: Photometric Calculation



(e) **Minimum illumination guidelines for security purposes.** All minimum illumination guidelines for security lighting listed in this section shall be maintained from ground level to a height of six (6) feet. The minimum to maximum uniformity ratio may range up to 6:1 in acceptable layouts. In some circumstances, customer convenience, closed-circuit surveillance, and commercial entertainment uses may require a higher level of lighting.

(f) **Outdoor lighting intensity standards.** When outdoor lighting is proposed or required, the following standards in the table on the following page shall apply and the “activities” as described in the table shall be assigned and evaluated by the Appleton Police Department and Community Development Department based on the type of use, the hours of operation and the area in which the use is located.

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Outdoor Lighting Intensity and Uniformity Standards.

Light Use	Minimum Horizontal Foot-candles	Maximum Horizontal Foot-candles	Additional Regulations
Parking lot	0.5	5	(1) Areas used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking lot lighting. (2) Parking lot lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.
Outdoor display and sales	-	5	-
Walkways, sidewalks, bike paths	-	5.0	(1) Lighting fixtures shall be designed to direct light downward, and the initial output of light sources shall not exceed one thousand (1,000) lumens. (2) Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.
Parks and playgrounds	-	0.5	Lighting fixtures shall be designed to direct light downward, and the initial output of light sources shall not exceed one thousand (1,000) lumens.
Canopies and drive through facilities	5.0	20.0	(1) Light fixtures mounted on or under canopy ceilings shall be full cutoff, unless indirect lighting is be used whereby light is directed upward and then reflected down from the ceiling of the structure. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the ceiling of the structure. (2) Lights shall not be mounted on the top or sides of a canopy and the sides of a canopy shall not be illuminated. (3) Lighting for drive-through facilities must be fully shielded. (4) Canopy and bay lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.
Outdoor activity facility	All outdoor entertainment or recreational/sports facility lighting will be reviewed for compliance with minimum site lighting criteria and light trespass criteria and with regard to the intent of these exterior lighting standards to minimize the impact of light trespass and glare on all surrounding properties and public rights-of-way.		
High risk activity (e.g., bank deposit night drop or ATM)	4.0	5.0	Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.
Medium risk activity (e.g., convenience store open 24 hours)	2.0	4.0	Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.
Low risk activity (e.g., place of worship, office)	0.50	2.0	Lighting shall be metal halide, LED, or another source, unless permitted otherwise during plan review.

(Ord 71-12, §1, 7-24-12)

(g) ***Light trespass.*** All areas containing outdoor lighting (except public street lighting) shall limit light trespass onto adjacent property, when measured at any point along a property line, to the requirements set forth below. Compliance shall be achieved by utilizing fixture shielding, directional control designed into fixtures, fixture location, height, or aim or a combination of these or other factors.

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<i>District Adjoining Subject Property</i>	<i>Maximum Light Spillage to Adjoining Lots Measured in Foot-candles</i>
AG, R-1A, R-1B, R-1C, R-2, R-3, P-I, NC, C-O, TND	0.20
C-1, C-2, CBD, P, M-1, M-2	0.50

(h) ***Exterior illumination of buildings and other vertical structures.*** When buildings or other structures are illuminated, the design for the illumination shall be in accordance with the following:

- (1) The illumination of buildings shall be limited to security lighting or highlighting unique architectural features.
- (2) Lighting fixtures shall be located and/or aimed such that light is directed only onto the building surface. All fixtures used to illuminate buildings shall be fully shielded.
- (3) For statues, monuments, fountains, or other objects for which it may not be possible to illuminate with downward lighting, upward lighting may be used only in the form of spotlights that confine the illumination to the object of interest.
- (4) If upward lighting is used to illuminate flags, only spotlights shall be used; floodlights directed above the horizontal shall not be used to illuminate a flag.

(i) ***Neon lighting.*** Light sources consisting of glass tubes filled with neon, argon, krypton, or other similar gas (hereafter referred to as “neon lighting”) are excluded from shielding and line-of-sight requirements. However such lighting shall be included in the light trespass requirements of §23-53(f). Furthermore, neon lighting shall not be considered as security lighting.

(j) ***Other outdoor lighting.***

- (1) Outdoor lighting not otherwise specified in this code emitting more than one thousand two hundred (1,200) lumens (except motion detector activated lighting) shall be full cutoff and fully shielded. Bulbs in outdoor light fixtures emitting from six hundred (600) to one thousand two hundred (1,200) lumens may be installed in fixtures that are not full cutoff and may be visible from the property line provided, however, such bulbs shall be frosted glass or covered by frosted glass or other similarly translucent material.
- (2) A spotlight or floodlight of less than one thousand eight hundred (1,800) lumens need not be full cutoff or fully shielded if its center beam is aimed at a point not beyond any property lines and no less than forty-five degrees (45°) below horizontal, is used for security lighting purposes only, and is motion detector activated and cycles off within five (5) minutes after the cessation of motion within its field of view.
- (3) Tower or antenna lighting shall not be permitted unless required by the Federal Aviation Administration (FAA).

(k) ***Enforcement.*** Failure to adhere to the requirements of this section or an approved lighting plan shall be deemed a violation of this code.

(l) ***Exceptions.***

- (1) The temporary use of low wattage or low voltage lighting for approved festivals, celebrations, and the observance of holidays are exempt from this section except where they create a hazard or nuisance from glare.
- (2) Consideration to light trespass requirements shall be demonstrated prior to commencing the use of the temporary lighting.
- (3) Emergency lighting and traffic control lighting shall be exempt from the requirements of this section.

(m) ***Lights not conforming to this chapter.***

- (1) ***Authority to continue.*** Any lawful lighting fixtures located within the City at the effective date of this section or which shall come to be located in City as a result of annexation after the effective date of this code, which does not conform to the provisions of this section, may continue provided the lighting remains in conformance with the provisions of this subsection.
- (2) ***Ordinary maintenance and repair.*** Nothing in this subsection shall relieve the owner or beneficial user of legal nonconforming lighting, or the owner of the property on which the legal nonconforming lighting is located, from the provisions of this section regarding safety, maintenance and repair. Normal maintenance, including replacing light bulbs, cleaning, or routine repair of legal nonconforming light fixtures, shall not be deemed to be a condition that triggers a loss of lawful status described below, unless such maintenance increases the nonconforming aspects of the lighting.
- (3) ***Loss of lawful status.***
 - a. Legal nonconforming status shall terminate under the following conditions:
 1. If a light fixture is no longer used for a period of twelve (12) months or longer it shall be deemed abandoned and shall not thereafter be reestablished; or
 2. If a lighting fixture is structurally altered such that its nonconforming aspects increase; or
 3. If a lighting fixture is relocated, replaced, or moved in any way; or the lighting fixture is damaged and the cost of repair exceeds fifty percent (50%) of its replacement value.
 - b. Upon the event of any of the aforementioned, the lighting fixture(s) shall be immediately brought into compliance with this section, or the lighting fixture(s) shall be removed.
- (4) ***Removal pursuant to public order.*** Lighting found by a governmental agency to create public hazard can be ordered removed or altered at any time.

Sec. 23-54. Temporary uses and structures.

(a) ***Purpose.*** This section is intended to provide the regulation and control of temporary uses and temporary structures that occur on private property on an intermittent basis or for a specific period of time, not intended to become a permanent use or structure. This section will ensure that standards are addressed and that the temporary use or temporary structure will not have a negative impact on adjacent properties and neighborhoods.

(b) ***General standards.*** All temporary uses and structures shall meet the following requirements:

(1) ***Lot and setback requirements.***

- a. A temporary use and/or temporary structure shall not occur or be placed on a vacant lot, unless otherwise stated in this section.
- b. A temporary use and/or temporary structure shall comply with the minimum front, rear and side yard setback requirements for the principal structure (development standards) of the zoning district in which the temporary use or temporary structure is located, unless otherwise stated in this section.
- c. A temporary use and/or temporary structure shall not be placed in an area intended for emergency service vehicles.
- d. A temporary use and/or temporary structure that is located in a parking lot shall not occupy more than forty percent (40%) of the available parking spaces for the principal use(s).

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- e. A temporary use and/or temporary structure shall not impede the vehicular traffic circulation or the movement of emergency vehicles on the lot.
 - f. A temporary use and/or temporary structure shall not be placed in the required interior or perimeter parking lot landscaping areas.
- (2) **Outdoor lighting.** The minimum regulations of §23-53, Outdoor lighting shall be complied with.
- (3) **Parking spaces.** All required parking spaces shall be provided on the same lot with the temporary use, unless otherwise stated in this section. The number of parking spaces required for the temporary use is based on parking requirements for the most similar use type listed under §23-172 of this chapter, unless otherwise stated in this section. However, due to the primary pedestrian orientation of the Central Business District (CBD), the off-street parking requirements are not required for temporary uses located in the CBD. In addition, the number of off-street parking and loading spaces required are reduced by fifty percent (50%) for uses in the C-1 district.
- (4) **Food sales.** Food sales shall be licensed and operated under valid City of Appleton Health Department permits pursuant to the Municipal Code and state laws.
- (5) **Sanitary facilities.** Sanitary facilities, either portable or permanent, shall be made available to all employees, attendants and participants of the temporary use or temporary structure during its operation hours, as determined and required by the Inspections Supervisor.
- (6) **Other code requirements.** The applicant shall apply for and receive all applicable permits and licenses pursuant to the Municipal Code prior to establishing a temporary use and/or temporary structure on a lot.
- (7) **Cleanup.** The site shall be completely cleaned of unsold merchandise, debris and temporary structures including, but not limited to: trash receptacles, signs, stands, poles, electrical wiring or any other fixtures and accessories or equipment connected therewith, after the termination of the temporary use or temporary structure.
- (c) **Temporary uses.** The following temporary uses may be permitted as specified:
- (1) **Outdoor sale of seasonal agricultural products.**
- a. Permitted zoning districts: AG, P-I, C-1, C-2 or CBD.
 - b. Outdoor sales of seasonal agricultural products may be allowed on a lot for no more than one hundred twenty (120) total days per calendar year.
 - c. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, pursuant to the requirements of §23-54(b)(3).
 - d. Outdoor sale of seasonal agricultural products are exempt from the setback requirements of §23-54(b)(1)b, except that no outdoor sale of seasonal agricultural products, shall be located within the vision corner, pursuant to §23-50, of this chapter.
 - e. Temporary structures associated with the temporary use shall comply with the standards of this section.
- (2) **Outdoor Christmas tree sales lot (including incidental sale of Christmas related items).**
- a. Permitted zoning districts: AG, R-1A, R-1B, R-1C, R-2, R-3, P-I, C-1, C-2, or CBD.
 - b. Outdoor Christmas tree sales lot (including incidental sale of Christmas related items) may be allowed on a lot for no more than forty-five (45) total days per calendar year.

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- c. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, pursuant to the requirements of §23-54(b)(3).
- d. Hours of operation for an outdoor Christmas tree sales lot (including incidental sale of Christmas related items) shall be limited to 8:00 a.m. to 8:00 p.m. when placed on a residential zoned lot or associated with a residence.
- e. Outdoor Christmas tree sales lot (including incidental sale of Christmas related items) are exempt from the setback requirements of §23-54(b)(1)b, except that no outdoor Christmas tree sales lot (including incidental sale of Christmas related items) shall be located within the vision corner, pursuant to §23-50, of this chapter.
- f. Temporary structures associated with the temporary use shall comply with the standards of this section.

(3) ***Outdoor fireworks sales.***

- a. Permitted zoning districts: C-1, C-2 or CBD.
- b. Outdoor fireworks sales may be allowed on a lot pursuant to the timeframe listed on the fireworks vendor license issued by the City Clerk's Office.
- c. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, pursuant to the requirements of §23-54(b)(3).
- d. Outdoor fireworks sales are exempt from the setback requirements of §23-54(b)(1)b, except that no outdoor fireworks sales shall be located within the vision corner, pursuant to §23-50, of this chapter.
- e. Temporary structures associated with the temporary use shall comply with the specific regulations of this section.

(4) ***Rummage sales.***

- a. Permitted zoning districts: Any district when incidental to a residential dwelling.
- b. Provision for parking spaces is not required for rummage sales.
- c. Rummage sales may be allowed on a lot for no more than three (3) consecutive days and no lot shall be used for more than three (3) such sales in one (1) calendar year.
- d. The display of rummage sale items are exempt from the setback requirements of §23-54(b)(1)b, except that no rummage sale items shall be displayed and/or sold within the vision corner, pursuant to §23-50, of this chapter.
- e. Temporary structures associated with the temporary use shall comply with the standards of this section.

(5) ***Outdoor temporary merchandise sales other than outdoor seasonal agricultural products, outdoor Christmas tree sales, outdoor firework sales/stands, rummage sales and outdoor farmers markets.***

- a. Permitted zoning districts: C-1, C-2 or CBD.
- b. Outdoor temporary merchandise sales may be allowed on a lot for no more than five (5) consecutive days and no lot shall be used for more than four (4) such sales in one (1) calendar year.
- c. The provision for parking spaces shall be provided on the same lot with the temporary use, pursuant to the requirements of §23-54(b)(3).

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- d. Outdoor temporary merchandise sales are exempt from the setback requirements of §23-54(b)(1)b, except that no outdoor temporary merchandise sales shall be displayed and/or sold within the vision corner, pursuant to §23-50, of this chapter.
- e. Temporary structures associated with the temporary use shall comply with the standards of this section.

(6) ***Outdoor farmers market.***

- a. Permitted zoning districts: AG, P-I, C-1, C-2 or CBD.
- b. Outdoor farmers market may be allowed on a lot pursuant to the dates listed on the farmers market license issued by the City Clerk's Office.
- c. The provision for parking spaces shall be provided on the same lot with the temporary use, pursuant to the requirements of §23-54(b)(3).
- d. Outdoor farmers markets are exempt from the setback requirements of §23-54(b)(1)b, except that no outdoor farmers market shall be located within the vision corner, pursuant to §23-50, of this chapter.
- e. Temporary structures associated with the temporary use shall comply with the specific regulations of this section.

(7) ***Temporary model home sales office.***

- a. Permitted zoning districts: R-1A, R-1B, R-1C, R-2 or R-3.
- b. Temporary model home sales offices may be allowed on a lot for the purpose of promoting the sale, or rental of dwellings and/or lots, which are located only within the same residential development or subdivision for a period of three (3) years.
- c. The provision for parking spaces shall be provided on the same lot with the temporary use and/or on-street, pursuant to the requirements of §23-54(b)(3).
- d. There is no more than one (1) temporary model home sales office in the residential development or subdivision.
- e. The temporary model home sales office shall be designed as a permanent dwelling that meets all relevant requirements of the Municipal Code.
- f. The temporary model home sales office will be converted to residential use after it is used as a temporary model home sales office.

(8) ***Mobile food vendor***

- a. Permitted zoning districts: P-I, C-O, C-1, C-2, CBD, M-1, or M-2.
- b. Outdoor food vendor sales may be allowed on a lot for no more than one hundred twenty (120) total days per calendar year.
- c. The provision for parking spaces shall be provided on the same lot with the temporary use, pursuant to the requirements of §23-54(b)(3).
- d. Outdoor food vendor sales are exempt from the setback requirements of §23-54(b)(1)b, except that no outdoor food vendor sales shall be located within the vision corner, pursuant to §23-50, of this chapter.
- e. Temporary structures associated with the temporary use shall comply with the specific regulations of this section.

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(d) **Temporary structures.** The following temporary structures may be permitted as specified:

(1) **Temporary contractor's offices.**

- a. Permitted zoning districts: Any district when associated with a construction project.
- b. Provision for parking spaces is not required for temporary contractor's offices.
- c. Temporary contractor's offices may be located on a lot or vacant lot where there is a valid building permit issued for a permanent structure.
- d. Temporary contractor's offices shall be removed from the site upon issuance of a certificate of occupancy permit or upon occupancy of the permanent structure.
- e. Temporary contractor's offices shall be setback at least ten (10) feet from any property line.
- f. Temporary contractor's offices shall not be located within the vision corner, pursuant to §23-50, of this chapter.

(2) **Tents or canopies.**

- a. Permitted zoning districts: Any district when associated with any permitted temporary use not including temporary model home sales office.
 1. The maximum time limit shall be equal to the allowable time period for the temporary use, where such tent is incidental to the temporary use.
 2. Tents or canopies shall not be located within the vision corner, pursuant to §23-50, of this chapter.
- b. Permitted zoning districts: C-1, C-2, CBD, M-1, or M-2 district when associated with an outdoor display.
 1. The maximum time limit shall be equal to the allowable time period for the outdoor display, where such tent is incidental to the outdoor display.
 2. Tents or canopies shall not be located within the vision corner, pursuant to §23-50, of this chapter.

(3) **Portable storage units.**

- a. Permitted zoning districts: Any district when incidental to a residential dwelling.
 1. A maximum of four (4) portable storage units not exceeding a cumulative gross floor area of two hundred (200) square feet shall be permitted on a lot for no more than sixty (60) total days per calendar year.
 2. The portable storage unit shall be placed on an impervious surface.
 3. The portable storage unit shall not be located within the vision corner, pursuant to §23-50, of this chapter.
 4. Portable storage units shall not be used for the purposes of a garage or shed.
- b. Permitted zoning districts: P-I, C-O, C-1, C-2, CBD, M-1 or M-2.
 1. Two (2) portable storage units shall be the maximum allowed per lot.

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2. Portable storage units may be allowed on a lot for no more than thirty (30) consecutive days and no lot shall be used for more than three (3) times per one (1) calendar year.
3. Portable storage units shall be placed on an impervious surface.
4. Portable storage units may be placed on a lot within a designated loading space or shall be placed on a lot pursuant to §23-54(b), of this chapter.

(4) ***Temporary structures other than tents, canopies, temporary contractor's offices, or portable storage units.***

- a. Permitted zoning districts: Any district.
- b. Temporary structures may be located on a lot provided the use occupying a temporary structure is listed as a principal permitted use or special use in the underlying zoning district.
- c. The maximum time limit of the temporary structure other than a tent, canopy, temporary contractor's office, or portable storage unit shall be equal to the allowable time period for the temporary use, where such temporary structure is associated with a temporary use.
- d. Except as set forth in §23-54(d)(4)c, the maximum time limit of a temporary structure may not exceed six (6) months per calendar year.
- e. Temporary structures shall not be placed or located on pervious surfaces.
- f. Temporary structures shall not be located within the vision corner, pursuant to §23-50 of this chapter.

(e) ***Other temporary uses or temporary structures.*** The Community Development Director may determine that an unlisted temporary use or temporary structure may be allowed if it is similar in character to other temporary uses or temporary structures listed in this section and meets the intent of this ordinance.

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Table 3. Permitted Temporary Uses and Structures by Type and Zoning District.

Temporary Use Type	AG	R-1A R-1B R-1C R-2 R-3	NC	P-I	C-O	C-1	C-2	CBD	M-1	M-2	P
Outdoor sales of Seasonal Agricultural Products	A	*	*	A	*	A	A	A	*	*	*
Outdoor Farmers Market	A	*	*	A	*	A	A	A	*	*	*
Outdoor Food Vendor Sales	*	*	*	A	A	A	A	A	A	A	*
Outdoor Temporary Merchandise Sales	*	*	*	*	*	A	A	A	*	*	*
Rummage sales, when incidental to a residential dwelling	A	A	A	A	A	A	A	A	A	A	A
Outdoor Christmas tree sales lot	A	A	*	A	*	A	A	A	*	*	*
Outdoor Fireworks sales	*	*	*	*	*	A	A	A	*	*	*
Temporary Model Home sales office	*	A	*	*	*	*	*	*	*	*	*
Temporary structures	A	A	A	A	A	A	A	A	A	A	A
Temporary Contractor's Offices	A	A	A	A	A	A	A	A	A	A	A
Portable storage unit when incidental to a residential dwelling	A	A	A	A	A	A	A	A	A	A	A
Portable storage unit	*	*	*	A	A	A	A	A	A	A	*
Tents/canopies when associated with temporary use	A ¹	A ¹	A ¹	A ¹	A ¹	A ¹	A ¹	A ¹	A ¹	A ¹	A ¹
Tents/canopies when associated with outdoor display	*	*	*	*	*	A ¹	A ¹	A ¹	A ¹	A ¹	*

* = Temporary use type not allowed

A = Allowed

A¹ = Allowed *However, Tents greater than 200 square feet and Canopies greater than 400 square feet require a permit from the Appleton Fire Department.*

(Ord 145-08, §1, 10-7-08 (repealed and recreated entire §23-54); Ord 115-25, §1, 10-01-25)

Sec. 23-55. Accessory dwelling units (attached and detached).

(a) **Purpose.**

- (1) The accessory dwelling unit regulations of this section are intended to help promote the benefits of accessory dwelling units, while also preserving neighborhood character and promoting stability for established neighborhoods.
- (2) Accessory dwelling units help advance the City's housing and land use goals and policies by:
 - a. Accommodating additional housing units while preserving the character of existing neighborhoods.
 - b. Allowing efficient use of the City's existing housing stock and infrastructure.
 - c. Providing housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs.
 - d. Providing a means for residents to remain in their homes and neighborhoods.
 - e. Promoting a range of housing styles that meet the needs and appeal to all segments of the community and allows residents to age in place.

(b) **Definitions.** The definitions identified in this section shall apply to this section and shall prevail in the event any inconsistency exists between these definitions and the definitions set forth in Article II of this chapter.

- (1) **Accessory dwelling unit (ADU)** means an attached or a detached dwelling unit, which provides complete independent living facilities for one or more individuals and is located on a lot with a proposed or existing principal residential dwelling. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same lot and in conjunction with an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling.
- (2) **Attached accessory dwelling unit** means a dwelling unit connected to (by a minimum of one shared wall), contained within or a combination of connected to and contained within the existing footprint of an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling, including an attached garage.
- (3) **Detached accessory dwelling unit** means a freestanding building and where all sides of the building are not connected to an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling, including the conversion of or addition to any portion of an existing built or proposed to be built detached accessory building for the purpose of creating an accessory dwelling unit.
- (4) **Junior accessory dwelling unit (JADU)** means a dwelling unit that is no more than 500 square feet in size, which provides complete independent living facilities for one or more individuals and is contained within or a combination of connected to and contained within an existing footprint of an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling. It shall include permanent provisions for living, sleeping, eating, and cooking. However, a junior accessory dwelling unit may include bathing and sanitation facilities or may share bathing and sanitation facilities with the principal residential dwelling unit.
- (5) **Independent living facilities** means a dwelling unit having permanent provisions of all of the following features: living, sleeping, eating, cooking, bathing and sanitation facilities.
- (6) **Established front yard** means the closest distance measured from the principal building to the front lot line(s).

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- (7) **Convey, conveyed or conveyance** refers to the act of transferring property from one party to another by a written deed or an equivalent document, including condominium declarations documents. This is completed by recording the document with the County Register of Deeds.
- (8) **Gross floor area** means the sum of the horizontal areas of all floors of a building measured from the exterior face of the exterior walls or from the centerline of a wall separating two (2) dwelling units, but not including finished and unfinished basement areas, attached and detached garages, and any space where the floor-to-ceiling height is less than six (6) feet.
- (9) **Cooking appliances** means including, but not limited to: ovens, convection ovens, stoves, stove top, hot plates, microwave ovens, built in grills or similar appliances.

(c) **Permitted zoning districts.** Accessory dwelling units may be permitted in the R-1A, R-1B, R-1C, R-2 and R-3 Districts in conjunction with an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling.

(d) **Location.** Accessory dwelling units shall be located on the same lot as the single-family detached dwelling or two-family-zero lot line dwelling.

(e) **Accessory dwelling unit number and type.**

- (1) Lots with an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling are permitted to have a maximum of one (1) accessory dwelling unit and one (1) junior accessory dwelling unit per lot under the following options:
 - a. **Option 1 (attached ADU and JADU):** A single-family detached dwelling and a two-family-zero lot line dwelling is permitted to have one (1) attached accessory dwelling unit and one (1) junior accessory dwelling which meets the standards set forth in Section 23-56 of this Chapter; or
 - b. **Option 2 (detached ADU and JADU):** A single-family detached dwelling and a two-family-zero lot line dwelling is permitted to have one (1) detached accessory dwelling unit and one (1) junior accessory dwelling which meets the standards set forth in Section 23-56 of this Chapter.
 - c. Lots with an existing built or proposed to be built single-family detached dwelling or a two-family-zero lot line dwelling shall not be permitted to have both an attached accessory dwelling unit and a detached accessory dwelling unit.

(f) **Use regulations.**

- (1) **Timing of construction.** Accessory dwelling units shall not be constructed or established on a lot in the R-1A, R-1B, R-1C, R-2 or R-3 Districts prior to the single-family detached dwelling or two-family-zero lot line dwelling being present or under construction.
- (2) **Sale of property and tax parcel number.** The accessory dwelling unit or junior accessory dwelling unit must be in the same ownership as the principal single-family detached dwelling or two-family zero lot line dwelling and shall not be sold separately or otherwise conveyed separate from the principal single-family detached dwelling or two-family-zero lot line dwelling. A separate tax parcel number shall not be assigned to the accessory dwelling unit.
- (3) **Detached accessory building conversion.** Adding on vertically or horizontally to or converting all or a portion of an existing detached accessory building for the purpose of creating a detached or an attached accessory dwelling unit may be permitted, provided all of the provisions of this section are all complied with.
- (4) **Maximum size of accessory dwelling units.** The total combined gross floor area of the accessory dwelling unit and junior accessory dwelling unit shall not exceed the total gross floor area (as defined in subsection (b)(8) above) of the principal dwelling unit.

- (5) **Off-street parking.** No additional off-street parking is required for an attached or detached accessory dwelling unit beyond what is required for the principal dwelling unit. The existing required amount of off-street parking spaces for the principal dwelling unit shall be maintained on the lot. Any displaced off-street parking spaces required for the principal dwelling unit shall be replaced, and additional parking spaces shall be provided on the lot pursuant to Section 23-172.

(g) **Design requirements for attached and detached accessory dwelling units.** Attached and detached accessory dwelling units shall comply with the following design requirements, unless otherwise indicated:

- (1) **Compliance with applicable regulations.** Attached and detached accessory dwelling units, including adding on to or converting an existing detached accessory building for the purpose of creating a detached or an attached accessory dwelling unit shall comply with all applicable Municipal Code regulations, including but not limited to, City Policies, Zoning, Local Building, State of Wisconsin Uniform Dwelling Code, Fire, Drainage, Water Utility, Sewer and Wastewater Disposal regulations, and all applicable State and Federal Laws, unless otherwise stated in this section.
- (2) **Exterior finish materials.** Exterior finish materials for attached accessory dwelling units must visually be similar to the exterior finish materials of the principal dwelling unit.
 - a. For the purpose of this subsection, the term “similar materials” means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, color, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. or alike; having a general resemblance, although allowing for some degree of difference. This term is to be interpreted to mean that one thing has a resemblance in many respects, nearly corresponds, in somewhat like, or has a general likeness to some other thing but not identical in form and substance.
- (3) **Orientation of exterior entry doors and stairways.**
 - a. **New (ADU) exterior entry door.** All new exterior entry doors constructed exclusively to serve the accessory dwelling unit are permitted to face the side and rear yard, except only one (1) new entry door is permitted to face the front yard that exclusively serves the accessory dwelling unit.
 - b. **Shared use of an existing or proposed (primary dwelling unit or detached garage) exterior entry door.** Exterior entry doors located on the exterior façade of the existing or proposed to be built principal dwelling unit or detached garage may be used to serve the accessory dwelling unit, provided all applicable Building and Fire Codes are satisfied.
 - c. **Stairways (interior and corner lots).** All new stairways constructed to serve an accessory dwelling unit located above the first story shall be built on the exterior façade facing the side yard and rear yard only for interior and corner lots.
 - d. **Stairways (double frontage lots).** A new stairway constructed to serve an accessory dwelling unit located above the first story is allowed to be built on the exterior façade facing the front yard that is opposite the front yard from which the principal dwelling unit is addressed and/or the side yard for double frontage lots.
- (4) **Foundation design.** Accessory dwelling units shall be supported by a permanent frost free foundation conforming to the construction standards pursuant to Chapter 4 of the Municipal Code.
- (5) **Water meter and service connection.** A new separate water meter and service connection to the public water main is not required for accessory dwelling units, unless requested and paid for by the property owner. The new separate water meter service shall be connected directly to the public water main.

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(6) *Separate electrical service.*

- a. ***Detached accessory dwelling units.*** Detached accessory dwelling units shall have a separate electric meter and electrical panel independent from the principal dwelling unit.
- b. ***Attached accessory dwelling units.*** A new separate electric meter and electrical panel independent from the principal dwelling unit is not required for an attached accessory dwelling unit, unless installed and paid for by the property owner. If a new separate electrical meter and electrical panel is not installed, access to the electrical panel located inside the principal dwelling unit shall be accessible to occupant(s) of the attached accessory dwelling unit.

(h) *Setbacks.*

(1) Attached accessory dwelling units shall comply with the following setback requirements:

- a. ***Minimum front lot line setback (street and alley):*** The minimum setbacks shall be what is required in the underlying zoning district for the principal dwelling unit.
- b. ***Minimum side lot line setback:*** The minimum setbacks shall be what is required in the underlying zoning district for the principal dwelling unit.
- c. ***Minimum rear lot line setback:*** The minimum setbacks shall be what is required in the underlying zoning district for the principal dwelling unit.
- d. ***Minimum separation between all buildings:*** Ten (10) feet.
- e. The minimum front, side and rear lot line setbacks for accessory dwelling units constructed or established on nonconforming lots of record may be modified pursuant to Section 23-42(f)(1), (2), (3) and (4) of this Chapter.

(2) Detached accessory dwelling units shall comply with the following setback requirements:

- a. ***Minimum front lot line setback (street and alley):*** Shall not be located in the established front yard, except for double frontage lots.
- b. ***Minimum front lot line setback (double frontage lots):*** The minimum setback shall be what is required in the underlying zoning district for the principal dwelling unit for the yard opposite the front yard from which the principal dwelling unit is addressed.
- c. ***Minimum side lot line setback:*** The minimum setbacks shall be what is required in the underlying zoning district for the principal dwelling unit.
- d. ***Minimum rear lot line setback:*** The minimum setbacks shall be what is required in the underlying zoning district for the principal dwelling unit.
- e. ***Minimum separation between all buildings:*** Ten (10) feet.
- f. The minimum side and rear lot setbacks for detached accessory dwelling units constructed or established on nonconforming lots of record may be modified pursuant to Section 23-42(f)(1), (2) and (4) of this Chapter.

(i) ***Maximum lot coverage.*** Attached and detached accessory dwelling units shall be included in the calculation of maximum lot coverage that is required in the underlying zoning district that it is located in. The maximum lot coverage percentage as established for the underlying zoning district shall not be exceeded.

(j) **Building height.**

- (1) Attached accessory dwelling units shall not exceed the maximum building height limit is required in the underlying zoning district for the principal dwelling unit.
- (2) Detached accessory dwelling units shall not exceed the height of the principal dwelling unit.

(k) **Exceptions.**

- (1) Accessory dwelling units are exempt from the requirements of Section 23-43 (d)(4) and (f) of this Chapter.
- (2) Accessory dwelling units are exempt from the requirements of Section 23-51, Zoning with design standards of this Chapter.

(l) **Building permit application process.** Application, review, and approval of an accessory dwelling unit shall be pursuant to Chapter 4 of the Municipal Code.

- (1) Prior to issuance of a building permit for the accessory dwelling unit, the owner shall record a deed restriction in a form approved by the City that: includes a prohibition on the sale of the accessory dwelling unit separate from the sale of the single-family residence.
- (2) Addressing. Accessory dwelling units shall be assigned a building unit number in accordance with the Building Address Policy which is on file in the Inspections Division at the time when the building permit is issued.

Editor's Note: Sec. 23-55 was created by Ord No 25-21, adopted July 7, 2021, published July 12, 2021, becoming effective July 13, 2021.

Sec. 23-56. Junior accessory dwelling units (JADU).

(a) **Purpose.** This section provides standards for the establishment of junior accessory dwelling units, an alternative to the standard accessory dwelling unit. Junior accessory dwelling units will typically be smaller than an accessory dwelling unit and shall not be considered a separate dwelling unit.

- (1) Junior accessory dwelling units help advance the City's housing and land use goals and policies by:
 - a. Accommodating additional housing units while preserving the character of existing neighborhoods.
 - b. Allowing efficient use of the City's existing housing stock and infrastructure.
 - c. Providing housing options and choices that respond to varying income levels, changing household sizes and lifestyle needs.
 - d. Providing a means for residents to remain in their homes and neighborhoods, and
 - e. Promoting a range of housing styles that meet the needs and appeal to all segments of the community and allows residents to age in place.

(b) **Definitions.** See Section 23-55(b).

(c) **Permitted zoning districts.** Junior accessory dwelling units may be permitted in the R-1A, R-1B, R-1C, R-2 and R-3 Districts in conjunction with an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling.

(d) **Maximum number.** A maximum of one (1) junior accessory dwelling unit shall be permitted per residential lot in conjunction with an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling.

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(c) *Use regulations.*

- (1) ***Timing of construction.*** Accessory dwelling units shall not be constructed or established on a lot in the R-1A, R-1B, R-1C, R-2 or R-3 District prior to the single-family detached dwelling or two-family-zero lot line dwelling being present or under construction.
- (2) ***Sale of property and tax parcel number.*** The junior accessory dwelling unit must be in the same ownership as the principal single-family detached dwelling or two-family zero lot line dwelling and shall not be sold separately or otherwise conveyed separate from the principal single-family detached dwelling or two-family-zero lot line dwelling. A separate tax parcel number shall not be assigned to the junior accessory dwelling unit.
- (3) ***Maximum size.*** A junior accessory dwelling unit shall not exceed five hundred (500) square feet in size. In addition, the total combined gross floor area of the accessory dwelling unit and junior accessory dwelling unit shall not exceed the total gross floor area (as defined in subsection (b)(8) above) of the principal dwelling unit.
- (4) ***Off-street parking.*** No additional off-street parking is required for a junior accessory dwelling unit beyond what is required for the principal dwelling unit. The existing required amount of off-street parking spaces for the principal dwelling unit shall be maintained on the lot. Any displaced off-street parking spaces required for the principal dwelling unit shall be replaced and additional parking spaces shall be provided on the lot pursuant to Section 23-172.

(f) ***Design requirements for a junior accessory dwelling unit.*** Junior accessory dwelling units shall comply with the following design requirements, unless otherwise indicated:

- (1) ***Compliance with applicable regulations.*** Junior accessory dwelling units shall be considered to be a part of the principal dwelling unit on the lot and shall comply with all applicable Municipal Code regulations, including but not limited to, City Policies, Zoning, Local Building, State of Wisconsin Uniform Dwelling Code, Fire, Engineering, Water Utility, Sewer and Wastewater Disposal regulations, and all applicable State and Federal Laws.
- (2) ***Location of junior accessory dwelling unit.*** A junior accessory dwelling unit shall be attached to a single-family detached dwelling or two-family zero lot line dwelling, may be created in any part of an existing built or proposed to be built single-family detached dwelling or two-family-zero lot line dwelling, and may be created in an addition to a single-family detached dwelling.
- (3) ***Orientation of exterior entry doors and stairways.***
 - a. ***New (JADU) exterior entry door.*** All new exterior entry doors constructed exclusively to serve the junior accessory dwelling unit are permitted to face the side and rear yard, except only one (1) new entry door is permitted to face the front yard that exclusively serves the junior accessory dwelling unit.
 - b. ***Shared use of an existing or proposed (primary dwelling unit or detached garage) exterior entry door.*** Exterior entry doors located on the exterior façade of the existing or proposed to be built principal dwelling unit or detached garage may be used to serve the junior accessory dwelling unit, provided all applicable Building and Fire Codes are satisfied.
 - c. ***Stairways (interior and corner lots).*** All new stairways constructed to serve a junior accessory dwelling unit located above the first story shall be built on the exterior façade facing the side yard and rear yard only for interior and corner lots.
 - d. ***Stairways (double frontage lots).*** A new stairway constructed to serve a junior accessory dwelling unit located above the first story is allowed to be built on the exterior façade facing the front yard that is

opposite the front yard from which the principal dwelling unit is addressed and/or the side yard for double frontage lots.

(4) **Entry connections.**

- a. Junior accessory dwelling units that contain all the required features of an independent living facility (as defined in Section 23-55(b)(5)) will not be required to maintain an interior connection between the junior accessory dwelling unit and the principal dwelling unit. Junior accessory dwelling units that do not contain all the required features of an independent living facility (as defined in Section 23-55(b)(5)) will be required to maintain an interior connection between the junior accessory dwelling unit and the principal dwelling unit. Two (2) interior doors may be installed within one (1) frame for noise reduction.

(5) **Foundation design.** Accessory dwelling units shall be supported by a permanent frost free foundation conforming to the construction standards pursuant to Chapter 4 of the Municipal Code.

(6) **Water meter and service connection.** A new separate water meter and service connection to the public water main is not required for a junior accessory dwelling unit, unless requested and paid for by the property owner. The new separate water meter service shall be connected directly to the public water main.

(7) **Separate electrical service.**

- a. A new separate electric meter and electrical panel independent from the principal dwelling unit is not required for a junior accessory dwelling unit, unless installed and paid for by the property owner. If a new separate electrical meter and electrical panel is not installed, access to the electrical panel located inside the principal dwelling unit shall be accessible to occupant(s) of the junior accessory dwelling unit.

(8) **Kitchen area.** A junior accessory dwelling shall contain a kitchen area which includes a sink, cooking appliance, any size refrigerator, counter surface, and storage cabinets.

(9) **Bathing and sanitation.** Junior accessory dwelling units may include bathing and sanitation facilities, or may share bathing and sanitation facilities with the principal dwelling unit.

(10) **Setback and other zoning regulations.** For purposes of setbacks and other zoning regulations, the junior accessory dwelling unit shall be considered to be a part of the principal dwelling unit of subject site and shall be subject to the requirements of the underlying zoning district.

- a. The minimum front, side and rear lot line setbacks for junior accessory dwelling units constructed or established on nonconforming lots of record, may be modified pursuant to Section 23-42(f)(1), (2), (3) and (4) of this Chapter.

(g) **Exceptions.**

- (1) Junior accessory dwelling units are exempt from the requirements of Section 23-43(d)(4) and (f) of this Chapter.
- (2) Junior accessory dwelling units are exempt from the requirements of Section 23-51, Zoning with design standards of this Chapter.

(h) **Building permit application process.** Application, review, and approval of a junior accessory dwelling unit shall be pursuant to Chapter 4 of the Municipal Code.

- (1) Prior to issuance of a building permit for the junior accessory dwelling unit, the owner shall record a deed restriction in a form approved by the City that: includes a prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence.

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- (2) ***Addressing.*** Junior accessory dwelling units shall be assigned a building unit number in accordance with the Building Address Policy which is on file in the Inspections Division at the time when the building permit is issued.

Editor's Note: Sec. 23-56 was created by Ord No 26-21, adopted July 7, 2021, published July 12, 2021, becoming effective July 13, 2021.

Sec. 23-57 – Sec. 23-59. Reserved.

ARTICLE IV. ADMINISTRATION

Sec. 23-60. Purpose.

Administrative procedures and authority for administering, interpreting and enforcing this ordinance are herein established in order to achieve the following purposes:

- (a) To provide for the review of site and development plans before obtaining a Certificate of Occupancy;
- (b) To provide for the inclusion of necessary facilities, services and additional uses through special use permits;
- (c) To provide for the inclusion of uses which are not specified in this ordinance, but which have characteristics and a land use impact similar to permitted uses;
- (d) To assure that no work shall be started on relocation, construction, reconstruction, or structural alteration of a building, structure or use, until the building or use is found to comply with all provisions of this zoning ordinance;
- (e) To assure, before construction of new buildings or the commencement of a use or occupancy, or before occupancy is continued after alterations or changes in use have been made, that all regulations of the City have been met by requiring a Certificate of Use and Occupancy; and
- (f) To provide for the enforcement by issuance of orders by the Community Development Director or the Inspections Supervisor.

Sec. 23-61. Common Council.

(a) **Purpose.** The Common Council, without limitation upon such authority as it may possess by law, has responsibility for implementing and administering this chapter.

(b) **Powers and duties.** The Common Council, in general, performs the following functions:

- (1) Approves or disapproves any application for an amendment to this chapter, including applications for amendment to the Official Zoning Map.
- (2) Approves or disapproves any application for a special use permit.
- (3) Approves or disapproves any application for a PD and TND.
- (4) Approves or disapproves proposed amendments to the City's adopted land use policies.
- (5) Takes such other action not delegated to other bodies that may be desirable and necessary to implement the provisions of this chapter.

(Ord 61-94, §5, 5-18-94)

Sec. 23-62. Plan Commission.

(a) **Purpose.** The Plan Commission, without limitation upon such authority as it may possess by law, has responsibility for implementing and administering this chapter as set forth in this section.

(b) **Powers and duties.** There is created a Plan Commission with the powers and duties and qualifications as set forth in this section and in Wisconsin Statutes §62.23. Such powers and duties generally include:

- (1) To initiate, hear, review and offer its recommendations to the Common Council on applications for amendments to this chapter, including applications for amendment to the Official Zoning Map.

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- (2) To hear, review and offer its recommendations to the Common Council on applications for special use permits, subdivisions, annexations, PD, TND, official map actions, street vacations and name changes and other matters.
- (3) To prepare and recommend to the Common Council for adoption a comprehensive plan for the City, and from time to time to recommend to the Council such amendments as it may deem appropriate.
- (4) To aid and assist the Common Council and the departments of the City in implementing the City's adopted land use policies and in planning, developing and completing specific projects.
- (5) To review and report on any matters referred to it by the Common Council.
- (6) Review of any site plan upon disapproval by the Community Development Director.
- (7) Upon reasonable written request, to make its special knowledge and expertise available to any official, department, board or commission of the City to aid them in the performance of their respective duties relating to the planning and development of the City.
- (8) To review any similar use not specifically permitted, as denied by the Community Development Director, under §23-37(c). In no case shall this interpretation be construed as a process for a use variance.
- (9) To review and offer its recommendation to the Common Council on requests for modifications or waivers to screening and landscaping requirements as set forth in §23-66(h)18.b.vii.5.a. thru c.

(c) **Structure.** The structure of the Plan Commission shall comply with City Municipal Code Charter Ordinance §3-100, et seq.

(d) **Organization.** The Plan Commission shall organize by the election of a vice-chairman and such other officers as may, in their judgment, be necessary.

- (1) The Plan Commission shall keep a written record of its proceedings to include all actions taken.

- (2) Four (4) members shall constitute a quorum.

(Ord 61-94, §5, 5-18-94; Ord 82-06, §1, 7-11-06; Ord 69-13, §1, 8-13-13)

Sec. 23-63. Board of Appeals.

(a) **Purpose.** The Board of Appeals, without limitation upon such authority as it may possess by law, has responsibility for implementing and administering this chapter as set forth in this section.

(b) **Powers and duties.** There is created a Board of Appeals with the powers and duties and qualifications as set forth in this chapter and in Wisconsin Statutes §62.23. Such powers and duties include:

- (1) To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the Community Development Director or the Inspections Supervisor in the enforcement of this chapter.
- (2) To hear and decide upon applications for variances from the requirements of this chapter.
- (3) Upon reasonable written request, to make its special knowledge and expertise available to any official, department, board or commission of the City to aid them in the performance of their respective duties relating to the planning and development of the City.

(c) **Structure.** The Board of Appeals shall consist of five (5) members appointed by the Mayor and subject to approval by the Common Council as vacancies occur.

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- (1) One (1) member shall be an architect, engineer or contractor; one (1) member shall be a real estate broker; and three (3) members shall be selected for their knowledge of and interest in matters pertaining to this chapter.
- (2) Members shall serve staggered five (5) year terms; one (1) expiring each year. Terms shall expire May 1 of each year.
- (3) The Board shall reorganize in June of each year by electing a chairman, vice-chairman and secretary. All meetings of the Board shall be held at the call of the chairman or at such times as the Board determines.

(d) **Procedures.** The Board of Appeals shall hold meetings and make decisions in accordance with the following procedures:

- (1) All hearings conducted by said Board shall be open to the public. Any person may appear and testify at a hearing, either in person, or by duly authorized agent or attorney.
- (2) The Board of Appeals may call on any City department for assistance in the performance of its duties as may be reasonably required.
- (3) All decisions made by the Board shall be made without unreasonable delay.
- (4) The Board shall keep written minutes of its proceedings, showing the vote of each member upon each question, or if absent, or failing to vote, indicating such fact, and shall also keep records of its hearing and other official actions.
- (5) Findings of fact shall be included in the minutes of each case.
- (6) Every rule or regulation, amendment, decision or determination of the Board shall be filed promptly in the office of the board, and shall be a public record.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1c, 11-6-96; Ord 30-20, §1, 3-24-20)

Sec. 23-64. Administration.

(a) **Purpose.** The primary administration of this chapter is by the Community Development Director and Inspections Supervisor as noted below and cited throughout the chapter.

(b) The Community Development Director is responsible for performing the following duties:

- (1) Review and administer all site plans required by this chapter;
- (2) Review and approve or deny all applications for permitted use status under all zoning districts;
- (3) Conduct preapplication conferences with petitioners for zoning map amendments;
- (4) Receive, certify for completeness and forward to the Plan Commission all applications as prescribed by this chapter;
- (5) Have possession of permanent and current records of this chapter, including the City's Official Zoning Map and amendments to the Official Zoning Map, special use permits and ordinance amendments.
- (6) Review and approve or deny requests for modifications or waivers to screening and landscaping requirements as set forth in §23-66(h)18.b.vii.5.a. thru c.

(c) The Inspections Supervisor is responsible for performing the following duties:

- (1) Issue and maintain records of all building and sign permits;
- (2) Issue and maintain records of all Certificates of Occupancy;

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- (3) Conduct inspections of buildings, structures and uses of land to determine compliance with the terms of this chapter;
- (4) Make investigations with respect to matters referred to in this chapter;
- (5) Issue violation notices requiring compliance, to advise suspected violators of their right to appeal and to issue citations for violations of this chapter;
- (6) Require that all construction or work of any type be stopped when such work is not in compliance with this chapter and revoke any permit that was unlawfully issued without full compliance of the requirements of this chapter or under fraudulent conditions;
- (7) Have possession of permanent and current records of this chapter, including Board of Appeals cases;
- (8) Review, process and report findings and recommendations and forward appeal and variance requests to the Board of Appeals on those applications upon which the Board of Appeals is required to act;
- (9) Enforce all orders of the Board of Appeals.

(Ord 107-96, §1, 11-6-96; Ord 83-06, §1, 7-11-06; Ord 70-13, §1, 8-13-13)

Sec. 23-65. Zoning amendments.

(a) **Purpose.** The purpose of this section is to provide regulations which govern the amendment process and requirements to review and approve or deny changes to the zoning text and zoning map.

(b) Initiation of Amendments.

- (1) Proposed text amendments may be initiated by: Aldermanic Resolution, Plan Commission, or the Director.
- (2) Proposed zoning map amendments may be initiated by: Aldermanic Resolution, the owner of, or owner's designated agent of the particular property to be rezoned.

(c) Text amendments Procedure.

- (1) **Proposal.** Text amendments that serve a general public interest may be proposed by Aldermanic resolution in compliance with Council Rules, a majority of the Plan Commission, or the Director.
- (2) **Public hearing.**
 - a. Zoning text amendments will be submitted to the Plan Commission per Wis. Stat. §62.23(7)(d)(2) (2021-22), as amended from time to time. The Director shall establish a date, time and place to hold a public hearing.
 - b. Class 2 Notice shall be published prior to the public hearing. In addition, at least ten (10) days before said public hearing, written notice shall be provided to the Clerk of any municipality whose boundaries are within 1,000 feet of any lands affected by the proposed amendment.
 - c. The Director will be responsible for analyzing the facts regarding the zoning text amendment and prepare a staff review and recommendation for consideration by the Plan Commission.
 - d. In the case of any text amendment relating to floodplain and shoreland zoning, the Director shall also submit the amendment and the notice of public hearing to the Wisconsin Department of Natural Resources (DNR) and Federal Emergency Management Agency (FEMA).

(3) ***Authority of the Plan Commission.***

- a. Within sixty (60) days of submitting the proposed amendments the Plan Commission shall transmit to the Common Council its recommendation.
- b. If Plan Commission fails to make a recommendation within sixty (60) days of submitting the proposed amendment, the Common Council may hold a public hearing after the expiration of said sixty (60) day period. Failure to receive said recommendation from the Plan Commission shall not invalidate the proceedings or action of the Common Council. The public hearing must comply with procures set forth in 23-65(c)(2).

(4) ***Authority of the Common Council.***

- a. Within forty-five (45) days of the Plan Commission recommendation the Common Council shall act upon the recommendation.
- b. Common Council may refer the matter back to the Plan Commission consistent with Council Rules. In such cases, the Common Council shall present their rationale for the referral.
- c. The Common Council may approve or deny approval of the proposed amendment. Council action to approve the amendment shall be done by ordinance pursuant to Wis. Stat. 66.10015(3).
 - 1. Effective January 1, 2025, the enactment of zoning text amendments shall be approved by a simple majority of a quorum of the members-elect, pursuant to Wis. Stat. 66.10015(3).
- d. In the case of any text amendment relating to floodplain and shoreland zoning, shall not become effective until also being approved by the Wisconsin DNR and FEMA.

(d) ***Zoning Map Amendments Procedure.***

- (1) ***Proposal.*** Zoning map amendments that serves a general public interest may be proposed by Aldermanic resolution in compliance with Council Rules. A resolution to initiate a zoning map amendment must be accompanied by the information required on an application form provided by the City and shall be processed in accordance with the provisions of this section. If the Plan Commission determines a zoning map amendment proposed by an alderperson is primarily intended to serve an individual or narrow interest rather than the general public interest, it shall report such resolution with a recommendation that the benefiting party submit an application with appropriate fees.

(2) ***Application procedure by property owner or property owner's designated agent.***

- a. A property owner or property owner's designated agent wishing to amend the zoning map for their property shall meet with the Director to discuss the proposed zoning map amendment.
- b. If the property owner or property owner's designated agent wishes to pursue a zoning map amendment, they shall supply the information as required on an application form provided by the City.

(3) ***Public hearing.***

- a. Zoning map amendments will be submitted to the Plan Commission per 62.23(7). The Director shall establish a date, time and place to hold a public hearing.
- b. Public Hearing notice shall be provided in accordance with Wis. Stat. §62.23(7)(d) (2021-22), as amended from time to time. At least ten (10) days before said public hearing, written notice shall be mailed to owners of record of all parcels within area of land extending 100 feet from boundary of subject land.

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- c. The Director will be responsible for analyzing the facts regarding the zoning map amendment and prepare a staff review and recommendation for consideration by the Plan Commission.

(4) **Authority of the Plan Commission.**

- a. Within sixty (60) days from the filing of the completed application the Plan Commission shall transmit to the Common Council its recommendation.
- b. If Plan Commission fails to make a recommendation within sixty (60) days from the filing of the completed application, the Common Council may hold a public hearing after the expiration of said sixty (60) day period. Failure to receive said recommendation from the Plan Commission shall not invalidate the proceedings or action of the Common Council. The public hearing must comply with procedures set forth in 23-65(d)(3).

(5) **Authority of the Common Council.**

- a. Within forty-five (45) days of the Plan Commission recommendation public hearing the Common Council shall act upon the recommendation.
- b. Common Council may refer the matter back to the Plan Commission consistent with Council Rules. In such cases, the Common Council shall present their rationale for the referral.
- c. The Common Council may approve or deny approval of the proposed amendment. If Council action is to approve the change, it shall further act to formally amend the Official Zoning Map by adopting an ordinance pursuant to Wis. Stat. 66.10015(3).
 - 1. Effective January 1, 2025, the enactment of zoning map amendments shall be approved by a simple majority of a quorum of the members-elect, pursuant to Wis. Stat. 66.10015(3).

(e) **Standards for zoning amendments.** All recommendations for Zoning amendments shall be consistent with the adopted plans, goals and policies of the City and with the purpose and intent of this zoning ordinance.

- (1) Prior to making a recommendation on a proposed zoning amendment, the Plan Commission shall make a finding to determine if the following conditions exist. No zoning amendment shall be approved prior to finding at least one (1) of the following:
 - a. The request for a zoning amendment is consistent with the Comprehensive Plan for the City of Appleton.
 - b. Factors have changed such as availability to new data, growth patterns and rates, the presence of new road or other infrastructure, additional development, annexation, or other zoning changes, making the subject property more appropriate for a different district.
 - c. There is an error in the zoning ordinance text or zoning map as enacted.

(f) **Time Period.**

- (1) **Extension.** The time period for action may be extended by an agreement in writing between the Director and the property owner or property owner's designated agent.
- (2) **Withdrawal.** An applicant shall have the right to withdraw an application at any time by submitting a written request to the Director prior to the decision on the application for a proposed zoning map amendment by the Plan Commission or Common Council.
- (3) **Reapplication time period.** No application for an amendment to the zoning text or map shall be considered by the Plan Commission within a one (1) year period following a denial of the same request by the Common Council, except that the Plan Commission may permit a new application if the request is different.

(g) **Concurrent planning and zoning actions.** Applicants may submit applications concurrently.

(h) **Zoning of annexed areas.** All territory that is annexed to the City shall be assigned zoning classifications as recommended by the Plan Commission during review of the annexation petition. The Plan Commission shall consider the criteria in 23-65(e) in selection of an appropriate zoning district for the annexed land.

A zoning classification of AG Agricultural Zoning District shall be assigned to newly annexed territory with no hearing required. However, if the Plan Commission recommends a zoning classification other than AG Agricultural Zoning District, the Plan Commission shall hold a public hearing on the assigned zoning classifications in accordance with the application procedures 23-65(d), Zoning map amendments. If annexed territory does not comply with AG Agricultural Zoning District standards, 23-32(c)(2) defines existing uses, buildings, structures, and lots as nonconforming and must comply with 23-42.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96, Ord 46-00, §1, 6-10-00; Ord 121-05, §1, 10-25-05; Ord 31-20, §1, 3-24-20; Ord 151-24, §1, 11-6-24)

Sec. 23-66. Special use permits and special regulations.

(a) **Authority.** The Common Council, by an affirmative two-thirds (2/3) vote of the entire Council, may by resolution, approve, approve with conditions, deny, or revoke a special use permit for uses listed as special uses in this Chapter. The resolution functions as the special use permit that authorizes the recipient to establish a specific land use under specific terms and conditions.

(b) **Purpose.** The purpose of this section is to provide regulations which govern the procedure and requirements to review and approve, approve with conditions, deny, or revoke a special use permit. Special uses are those uses having some uniqueness or unusual impact which requires a careful review of their location, design, business process, and hours of operation to determine against fixed standards, the desirability of permitting their establishment on any given site. They are uses that may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the community and neighborhood impact and effect as well as consistency to the comprehensive plan.

(c) **Procedure.**

(1) **Application.** An owner or owner's designated agent wishing to obtain a special use permit for his property shall meet with the Community Development Director to discuss the proposal. If the owner or owner's designated agent desires to pursue the special use permit, they shall obtain, complete and file a special use permit application form with the Community Development Department accompanied by a nonrefundable application fee which may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review. One (1) electronic document and one (1) paper copy of the application materials (completed application form, plan of operation and development plans) shall be submitted with the fee to the Director. After submittal and acceptance of a complete application through initial review by the Director, the complete application and supporting materials are then filed with the City Clerk. The special use permit application and supporting materials shall be referred to the Plan Commission.

(2) **Public hearing.** The Plan Commission shall hold a public hearing advertised by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.

(3) **Authority of the Plan Commission.** The Plan Commission shall within forty-five (45) days of the public hearing make a report and recommendation of approval or denial of the resolution which functions as the special use permit to the Common Council pursuant to Section 23-66(c)(5). In making its decision, the Commission shall keep a written record of findings relative to the standards for considering special use permit applications as listed in Sections 23-66(c)(5) and (e).

(4) **Authority of the Common Council.** The Common Council shall within forty-five (45) days of Plan Commission action act to approve, approve with conditions or deny the special use permit by resolution pursuant to Section 23-66(c)(5) and (e). The resolution functions as the special use permit that authorizes the recipient to establish a specific land use under specific terms and conditions.

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(5) *Approval or denial by Plan Commission and Common Council.*

- a. **Definition of Substantial Evidence.** “*Substantial evidence*” means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a special use permit and that reasonable persons would accept in support of a conclusion.
- b. If a property owner or owner's designated agent for a special use permit meets or agrees to meet all of the requirements and conditions specified in the City of Appleton Municipal Code or those imposed by the Plan Commission and/or Common Council, the City shall grant the special use permit. Any condition imposed must be related to the purpose of the City of Appleton Municipal Code and be based on substantial evidence.
- c. Any requirements and conditions for approval must be reasonable and, to the extent practicable, measurable and may include conditions such as the permit's duration, transfer, or renewal. The property owner or owner's designated agent must demonstrate that the application and all requirements and conditions established by the city relating to the special use are or shall be satisfied, both of which must be supported by substantial evidence. The City’s decision to approve or deny the permit must be supported by substantial evidence.
- d. Once granted, a special use permit shall remain in effect as long as the conditions upon which the permit in the form of a resolution was issued are followed, but the city may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the Plan Commission and/or Common Council.
- e. If a special use permit application is denied, the property owner or owner's designated agent may appeal the decision to the circuit court under the procedures contained in Wisconsin Statute §62.23(7)(e)(10) or as amended.

(d) **Application requirements.** The applicant shall provide the following information on the special use permit application form:

- (1) Applicant and property owner's name, address and telephone number.
- (2) Parcel information, including tax key number, legal description, street address, if any, dimensions and existing zoning and land use designations.
- (3) Completed Plan of Operation form.
- (4) Written justification for the special use being requested and supporting documentation describing how the applicant believes that the request conforms to the standards for special uses listed in subsection (e), Standards for granting special use permits, below.
- (5) Development plan of property being proposed for a special use permit which shall supply the information as identified below:
 - a. North arrows, date of preparation, and scale on 8½” x 11” size paper.
 - b. Name(s) of all adjacent or surrounding streets and right-of-way width(s).
 - c. Recorded property lines and their dimensions.
 - d. All existing and proposed buildings and structures accessory to the principal use, including the use of each building or structure, dimensions and their locations on the parcel.
 - e. Dimensions of existing and proposed yard setbacks for buildings and structures.

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- f. Dimensions of existing and proposed parking, loading, and unloading areas, sidewalks and interior and perimeter landscaping areas. Identify proposed and existing surface material(s).
- g. The location of existing and proposed trees, shrubs and grass.
- h. The location and details of proposed and existing refuse containers and their enclosures.
- i. The location and type of all proposed and existing exterior lighting fixtures.
- j. The location, height and materials of all proposed and existing fences or retaining walls.
- k. The location and size of existing and proposed driveways.
- l. The location and use of buildings and structures on adjoining land.
- m. Show the general landscaping concept for the site.
- n. Submit preliminary architectural plans for the existing and proposed buildings that show sufficient detail to permit an understanding of the style of the development and the design of the building(s).
- o. Submit floor plan of the building(s), including room dimensions.
- p. Other additional information that may be deemed appropriate by the Community Development Director.

(e) ***Standards for granting special use permits.*** No special use permit shall be recommended by the Plan Commission, or approved by the Common Council, unless all of the following standards are found in the affirmative:

- (1) ***Proper zoning district.*** The proposed special use is designated by this Chapter as a possible special use in the zoning district in which the property in question is located.
- (2) ***District regulations.*** The proposed special use will comply with all applicable development standards in the zoning district in which the property in question is located.
- (3) ***Special regulations.*** The proposed use will comply with all special regulations established by this chapter for such special use.
- (4) ***Comprehensive Plan or other plans.*** The proposed special use is consistent with the Comprehensive Plan or other plan officially adopted by Common Council.
- (5) ***Traffic.*** Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (6) ***Landscaping and screening.*** Appropriate landscaping and screening has been or will be provided to protect adjacent uses or properties from light, noise and other visual impacts that are associated with the proposed special use as established in §23-172(g), Perimeter parking lot and loading space landscaping and §23-601, Landscaping and screening standards.
- (7) ***Neighborhood compatibility.*** The proposed use is compatible with the predominant or prevailing land use of the neighborhood surrounding the proposed development. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height of buildings, walls and fences, landscaping, screening, and exterior lighting.
- (8) ***Impact on services.*** The proposed special use will not substantially increase congestion in the public streets; will not place an undue burden on any other public utilities; or will not increase the danger of fire or endanger the public health or safety.

(f) ***Guarantees, validity period and revocation.***

(1) ***Expiration of special use permits.***

- a. A special use permit shall expire if the use is abandoned for a period of twelve (12) consecutive months.
- b. A special use permit shall expire if a building permit and/or occupancy permit has not been obtained within twelve (12) months of the issuance of the special use permit.
- c. A special use permit shall expire if the use has not been established within twelve (12) months of the issuance of the special use permit.
- d. A special use permit shall expire when a special use becomes a principal permitted in the applicable use table in the respective zoning district.

(Ord 156-24, §1, 11-6-24)

(2) ***Time extension of special use permits.*** Any party who has been issued a special use permit by the City shall notify the Community Development Director, in writing, that they are seeking a continuance or extension of any special use permit that has an expiration date as established by Common Council or this section. Such notification shall be submitted to the Community Development Director thirty (30) days prior to the special use permit expiration. The Community Development Director may grant one extension not to exceed 12 months.

(3) ***Effective date and filing of special use permits.*** A special use permit shall become effective upon approval of the resolution by the Common Council. A record of the special use permit shall be kept in the City Clerk and Community Development Department's files.

(4) ***Continuation of a special use permit.*** Once approved, a special use permit shall be allowed to continue and may be transferred to any entity, unless specified otherwise as a condition of approval, as long as all conditions placed on the special use are followed.

(5) ***Revocation of special use permits.*** Upon inspection by the Inspections Supervisor of any complaint against any condition upon which the special use permit was approved, such permit may be subject to revocation if the violation is not corrected with 30 days of written notice to the owner of the use by the Inspections Supervisor. Such written notice shall specify the violation and the means necessary to correct it. If the violation is not corrected within the specified time, the Common Council shall have the authority to revoke the special use permit upon recommendation of the Plan Commission after holding a public hearing by advertising a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.

(g) ***Major and minor changes to special uses.*** When an applicant requests a change in special use, the City shall review such change or modification to assure compatibility and compliance with the purpose of this section.

(1) ***Minor change.*** Minor changes shall be submitted to and be reviewed and approved by the Plan Commission amending the previously approved resolution (special use permit) or adopting a new resolution (special use permit) to those special uses that were not approved by a resolution. Minor changes include:

- a. Expansions of special uses of less than ten percent (10%).
- b. Other changes which keep with the general intent and character of the Special Use Permit previously issued.

(2) ***Major change.*** All other changes not identified as a "minor change" shall be deemed a major change in a special use and shall be submitted to Common Council for review per §23-66(c), Special use permits, procedure.

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(h) **Special regulations.** The following special regulations shall apply to uses listed below, whether listed a principal permitted use, special use or accessory use in this chapter. This subsection shall not be construed to conflict with or modify the provisions contained in Wisconsin Statutes §§66.0404 and 66.0406 (2021-22), as amended from time to time.

- (1) **Electronic towers.** Radio, television, broadcasting tower or station, microwave and other electronic transmission or receiving tower in excess of sixty (60) feet (from ground level) in height in any zone shall be subject to the following standards as illustrated on a site plan submitted with the application for special use permit. Electronic towers shall not include Mobile Service Support Structures and Facilities pursuant to Sec. 23-66(h)(22).
 - a. Distance of each freestanding electronic tower base footing from any residentially zoned lot line shall have a horizontal distance equal to at least fifty percent (50%) of the height of the electronic tower, or fifty (50) feet, whichever is greater.
 - b. Distance of any guyed tower anchor shall be twenty-five (25) feet from an adjoining lot line, public property or street right-of-way line.
 - c. The applicant shall demonstrate that the location of the electronic tower will not cause electrical interference or health hazards to adjoining properties. If electrical interference occurs after the electronic tower begins operation or if interference is anticipated, the applicant shall provide appropriate steps to eliminate said interference.
 - d. All electronic towers and associated ground equipment shall be enclosed with a fence at least eight (8) feet in height with a locked gate to discourage trespass. No fence and gate including any anti-climbing fence shall exceed twelve (12) feet in height. The anti-climbing fence and gate may be equipped with barbed wire or some other appropriate anti-climbing product to keep people from climbing over the fence. Guy anchors of guyed towers shall be similarly protected with anti-climbing fence.
 - e. All electronic towers and associated ground equipment shall be landscaped with plantings being placed outside and along the perimeter of the ground equipment compound fencing and shall consist of the following:
 1. The landscaping buffer shall include a staggered row of mature landscaping to minimize the visual impact of adjacent properties and from public streets. For purposes of this subsection, "mature landscaping" shall mean trees, shrubs or other vegetation of a minimum initial height of five (5) feet at the time of planting, which are spaced not more than eight (8) feet apart that will provide the appropriate level of visual screening immediately upon installation.
 2. The landscaping buffer shall consist of a landscaped strip at least ten (10) feet wide outside and along the perimeter of equipment compound fencing.
 - f. The plans submitted for a building permit for tower construction shall be certified by a structural engineer licensed in Wisconsin.
 - g. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

(Ord 91-23, §1, 10-10-23)

- (2) **Utility substations and other utility structures.** Utility substations or other utility structures in any zone shall be subject to the following additional standards:
 - a. All buildings and structures shall be screened from view from any adjacent property; the screening shall include a minimum five (5) foot high staggered row of evergreen vegetation which provides an effective year-round screening in addition to any fencing which may be deemed appropriate to provide additional screening from any adjacent property.

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- b. All such uses shall be enclosed with a minimum six (6) foot high fence where any hazard to the safety of human life is anticipated.
- c. No service or storage yard for such facility shall be permitted, unless screened in accordance with the outdoor storage requirements to this chapter.
- d. All buildings and structures shall comply with the minimum principal building front, side and rear yard standards of the underlying zoning district.
- e. The level of noise emanating from such use shall not exceed sixty (60) decibels measured at any lot line of the subject property.
- f. No special use permit is required if the utility substation is proposed to be located fully inside an existing building and is accessory to the primary use of the building.

(3) *Sexually-oriented establishment.*

Sexually-oriented establishments shall be as regulated in Article XII, Sexually-oriented establishments, of this zoning ordinance.

(4) *Body repair and/or paint shop.*

- a. All repair, painting and service of vehicles shall occur within a completely enclosed building.
- b. All vehicles awaiting repair shall be located within the side and rear yard and shall be completely screened from view from any public street, alley and adjacent property.
- c. All outdoor storage areas shall comply with the outdoor storage area requirements identified in this chapter.
- d. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

(5) *New and used automobile, RV, truck, cycle, boat sales and display lot.*

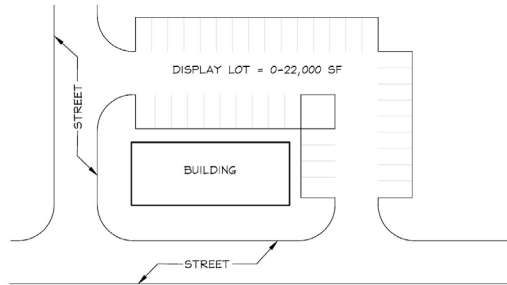
- a. All outdoor lighting shall comply with the standards in §23-53, Outdoor lighting.
- b. The minimum landscaping for display lots shall consist of the following landscaping standards:
 - 1. Perimeter setbacks.
 - i. Side and rear yards shall be a minimum of a five (5) foot wide buffer except when abutting a residential or public-institutional district, then ten (10) feet.
 - ii. Front yards shall be a minimum of a five (5) foot wide buffer.
 - 2. Perimeter landscape material.
 - i. Side and rear yards shall have a minimum six (6) foot high, staggered row of evergreens when abutting a residential or public-institutional zoned district. The property owner may request a waiver from the Community Development Director to reduce the setback and provide a six (6) foot high alternating board on board fence with landscaping.
 - ii. Perimeters adjacent to the right-of-way (front yards) shall have a minimum one (1) foot high, staggered row of evergreen and deciduous shrubs across eighty percent (80%) of the lot frontage, excluding driveway openings. Furthermore, one (1) shade tree shall be provided at approximately every forty (40) feet on center when the site abuts a dedicated public street.

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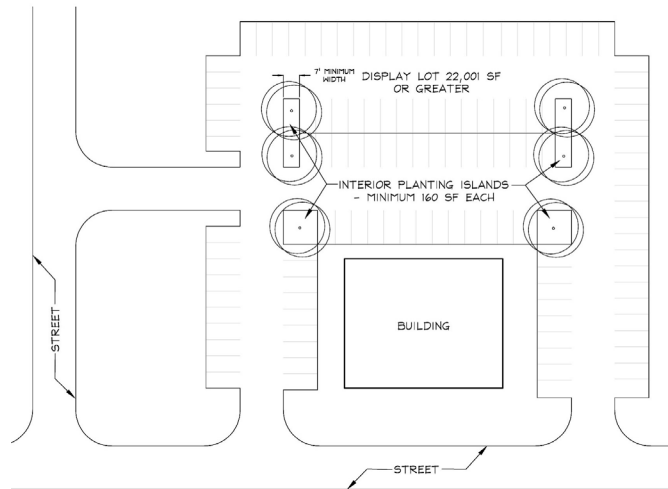
3. Interior landscaping.

- i. Display lots 0-22,000 square feet in area – No interior planting islands required.
- ii. Display lots 22,001 square feet in area or greater – Not less than two percent (2%) of the display lot area shall be devoted to interior planting islands. The planting islands may be centrally located within the display lot and contain a minimum of one hundred sixty (160) square feet and be a minimum of seven (7) feet in width.

NO INTERIOR PLANTING ISLAND REQUIRED
DISPLAY LOT = 0-22,000 SF



NOT LESS THAN 2 PERCENT OF DISPLAY LOT
DEVOTED TO INTERIOR PLANTING ISLANDS
DISPLAY LOT = 22,001 SF OR GREATER



4. Interior landscape material.

The primary plant materials shall be deciduous trees with at least one (1) deciduous tree for every one hundred sixty (160) square feet of interior planting island area.

- c. The outdoor display of merchandise and vehicles for sale shall not be located in areas intended for traffic circulation according to the site plan and development plan.
- d. No outdoor loudspeakers shall be in use between the hours of 8:00 p.m. and 8:00 a.m. when adjacent to a residential district.

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(6) *Bars, taverns, painting/craft studios and restaurants with alcohol sales.*

- a. Such establishments shall conform to the standards established in Chapter 9, Article III, Alcoholic beverages, of the Appleton Municipal Code.
- b. The site shall be kept free of litter and debris.
- c. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

(7) *Circus or carnivals.*

- a. In no case shall carnival rides or midways be within three hundred (300) feet of any residential zoning district or residence.
- b. All other approved temporary structures associated with the circus or carnival shall comply with the standards of §23-54.

(8) *Gasoline sales.*

- a. A minimum lot area of eighteen thousand (18,000) square feet shall be required. Lot frontage shall be a minimum of one hundred twenty (120) feet if located on a designated arterial street.
- b. A canopy constructed over gas pumps islands shall architecturally match the design of the main building and shall not exceed twenty-two (22) feet in height.
- c. All canopy lighting must project downward and shall be of full cutoff design unless indirect lighting is to be used whereby light is directed upward and then reflected down from the ceiling of the structure. In this case, light fixtures must be shielded so that direct illumination is focused exclusively on the ceiling of the canopy and shall comply with the standards in §23-53, Outdoor lighting.
- d. All gas pumps and canopies constructed over gas pumps shall be setback a minimum of forty (40) feet from any adjacent residentially zoned district.
- e. All outdoor storage and outdoor sales display areas shall comply with §23-46, Outdoor storage and display in non-residential districts, of this chapter.
- f. All gas pumps and canopies shall comply with the minimum principal building front, side and rear yard standards of the underlying zoning district.
- g. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

(Ord 30-11, §1, 1-25-11)

(9) *Helicopter landing pad.*

- a. Setbacks, landscaping and fencing appropriate to the specific nature of the use proposed shall be established during the special use permit review process.
- b. All areas for active use, including above ground fuel storage tanks shall be fully screened with a fence or evergreen shrubs.
- c. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- d. Unless necessary for medical or emergency purposes, the hours for operation shall be between 7:00 a.m. – 8:00 p.m.

(10)***Mobile home parks.*** Mobile home parks shall meet the standards and requirements of the City of Appleton's Manufactured and Mobile Homes and Manufactured and Mobile Home Communities Ordinance (Ch. 11).

(11)***Outdoor commercial entertainment.***

- a. All buildings, structures, viewing areas or seating areas shall be setback at least two hundred (200) feet from any residentially zoned district.
- b. All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets and shall comply with the standards in §23-53, Outdoor lighting.
- c. The hours of operation shall be identified by the applicant and approved by the Common Council as part of the special use permit process.

(12)***Outdoor kennels.***

Such uses shall conform to the standards established in Chapter 3, Animals, of the Appleton Municipal Code and as established below:

- a. All outdoor areas for dogs shall be fully enclosed with a six (6) foot high opaque fence.
- b. All outdoor areas for dogs shall be located in the rear yard only and be setback from a minimum of twenty (20) feet from the lot lines.
- c. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.

(13)***Recycling and waste recovery center.***

- a. All processing operations shall occur within a completely enclosed structure or building.
- b. Outdoor storage shall be limited to drop-off recycling bins and shall comply with the applicable outdoor storage requirements of this chapter.

(14)***Recycling collection point.***

- a. Recycling collection points shall not be located in areas intended for pedestrian and motor vehicle traffic and emergency service vehicle circulation on the premises.
- b. No processing of materials shall occur on premises.
- c. Collection points shall not be located on a vacant lot.

(15)***Towing business.***

- a. No servicing or maintenance of vehicles shall occur within the designated impound area.
- b. All designated impound areas located outside of an enclosed building shall be fully screened by an opaque fence, hedge or similar evergreen planting.
- c. No vehicles shall be located outside of the designated impound area.
- d. All outdoor lighting shall project downward and shall be of full cutoff design in order to minimize glare and reflection onto adjoining properties and public streets and shall comply with the standards in §23-53, Outdoor lighting.

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(16) *Custom manufacturing.*

- a. All custom manufacturing processes shall occur within a completely enclosed building.
- b. No off-site impacts including noise, odor, heat generation, glare or vibration shall occur on adjacent properties.
- c. The products or goods manufactured on premise shall be displayed or sold on premises.
- d. The on-site production area and materials storage area for the products or goods manufactured on premises shall not occupy more than thirty percent (30%) of the gross floor area of the space occupied by the custom manufacturing use.

(17) *Urban farm.*

- a. **Use of produce and sales.** Retail sales of plants and produce grown on-site and other public use of the urban farm may occur between the hours of 8:00 a.m. and 8:00 p.m. every day of the week unless otherwise adjusted and stipulated by the Special Use Permit.
- b. **Mechanical equipment.** The operating of mechanical equipment or motor vehicle, including but not limited to lawn mowers, rototillers, garden tractors, motorized weed trimmers, “farm tractor”, “all terrain vehicle” or any similar device, necessary for the maintenance of property shall only take place between the hours of 7:00 a.m. and 10:00 p.m. standard time or daylight savings time when in effect with the exception of snow removal equipment.
- c. **Signs.** One identification sign is permitted not exceeding eight (8) feet in height or forty-eight (48) square feet per sign face, and shall be subject to other applicable provisions of ARTICLE XIV. SIGNS including, but not limited to, setback and clearance standards.
- d. **Agricultural chemicals and seeds.** All seed and fertilizer shall be stored in a secured, rodent-proof container and housed within an enclosed structure.
- e. **Accessibility.** The urban farm must comply with Americans with Disabilities Act design standards for accessible entrance routes and accessible routes between its different components and must follow universal design principles whenever possible.
- f. **Planting area and principal building setbacks.** Development Standards. (See applicable zoning district for principal building/structure development standards).
- g. **Size of buildings/structures.** All buildings, including but not limited to, tool sheds, rest-room facilities, composting toilets, and planting preparation houses, hoopouses and greenhouses may have a combined area of all buildings and structures not to exceed twenty-five percent (25%) percent of the lot area. Roof top gardens on buildings are exempt from this standard.
- h. **Fences.** Fences are permitted as regulated in the underlying district unless otherwise authorized and stipulated by the Special Use Permit.
- i. **Compost and waste management.** Composting and waste management must be managed according to the farm management plan. Compost material is limited only to the materials generated on-site and must be maintained on-site. Compost materials from the garden or gardeners shall be stored in a manner that is not visible from adjacent property (shielded from view by shrubbery or an enclosure). Composting shall be conducted in a manner that controls odor, prevents infestation, and minimizes runoff into waterways and onto adjacent properties. No compost material generated off site shall be composted at an urban farm unless specifically approved by the City.

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- j. **Site design.** The site must be designed so that water and fertilizers will not drain onto adjacent property or into the City's waste water system.
- k. **Management plan.** Urban farms must prepare a management plan, to be reviewed as part of the special use process, to address how activities will be managed to avoid impacts on surrounding land uses and natural systems and includes any proposed mitigation measures. The management plan must include:
 - i. A description of the type of equipment and vehicles necessary or intended for use in each season and the frequency and duration of anticipated use.
 - ii. Disclosure of any intent to spray or otherwise apply agricultural chemicals or pesticides, frequency and duration of application, and the plants, diseases, pests or other purposes they are intended for.
 - iii. Disclosure of the spreading of manure or any other waste generated by the agricultural use.
 - iv. Disclosure of parking impacts related to the number of staff on-site during work hours, and the number of potential visitors regularly associated with the site.
 - v. Disclosure of whether the operation of the urban farm would involve two thousand (2,000) square feet or more of land-disturbing activity, or would otherwise require drainage and/or erosion control approval under Chapter 24 of the Municipal Code.
 - vi. A composting and waste management plan.
 - vii. Disclosure of any intent to invite the public to a program of events on the site.
 - viii. Site Plan contains, but is not limited to, the following:
 - Parking facilities;
 - Planting area including plant types;
 - Location and number of rest room/sanitary facilities;
 - Fence type, height and location;
 - Sign size and location;
 - Area to be utilized for produce cleaning and preparation;
 - Area to be utilized for sales;
 - Equipment, materials and fuel storage area;
 - Composting location.
 - ix. Identification of water source.
 - x. Any additional information that may be deemed appropriate by the Director of Community Development or designee.
 - xi. Lighting.
 - xii. Security.

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- l. **Standard conditions of approval.** In addition to complying with Section 23-66 Special use permits of this ordinance and in determining whether to approve, approve with conditions or deny the application, the City shall consider the potential impacts, including:
 - i. **Water quality and soils.** Impacts of irrigation run-off on adjacent properties, water bodies and environmentally critical areas, and proposed sediment and erosion control measures.
 - ii. **Traffic and parking.** Impacts related to the number of staff onsite during work hours, and the number of potential visitors regularly associated with the site.
 - iii. **Visual impacts and screening.** Visual impacts relating to the proposed nature, location, design, and size of proposed buildings, structures and activities, including the location of composting activities and planting areas, and any existing or proposed screening.
 - iv. **Noise and odor.** Impacts related to the location on the lot of the proposed urban farm, any trash or compost storage areas, any farm stand or additional accessory structure, and any other noise-generating or odor-generating equipment and practices.
 - v. **Agricultural chemicals.** Impacts related to the use of chemicals, including any fertilizer and pesticide.
 - vi. **Mechanical equipment.** Impacts related to the operation of equipment, including noise, odors, and vibration.
- m. **Compliance with laws.** All urban farms and their owners, lessees, employees, volunteers, and visitors must comply with all federal, state, and local laws and regulations relating to the operation, use, and enjoyment of the farm premises. Site users may not use materials such as inappropriate fill that introduce heavy metals or other harmful contaminants to garden or farm sites. Site users may use pesticides only to the extent permitted by law.

These Urban Farm standards and requirements are intended to work in concert with other applicable Municipal Codes including, but not limited to, Chapter 3 Animals, Chapter 4 Building, Chapter 7 Health, Chapter 9, Licenses, Permits, and Chapter 21 Vegetation and any other applicable Appleton Municipal Code Chapter. These and any other applicable local, state and federal regulations shall also apply.

(18)Outdoor storage area for recreational vehicles.

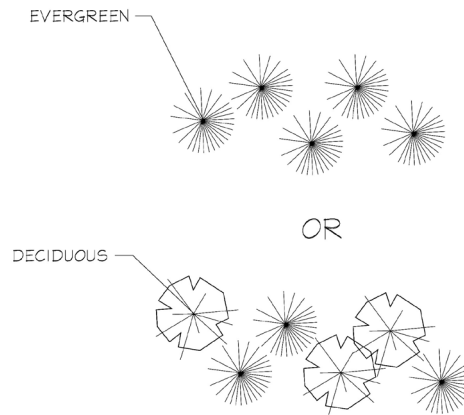
- a. **Purpose.** The purpose of these regulations is to provide adequate and convenient areas for such outdoor storage of recreational vehicles while minimizing the visual, noise and environmental impacts to adjacent properties and public and private streets.
- b. **Requirements.** Outdoor storage areas for recreational vehicles are accessory uses to personal storage facilities (self-storage/mini-warehouses) and shall be a permitted accessory use in the M-2 District. No outdoor storage areas for recreational vehicles shall be constructed or established on a lot unless a personal storage (self-storage/mini-warehouse) facility has already been constructed on the same lot. In addition, all of the following requirements shall apply to outdoor storage areas for recreational vehicles:
 - i. **Applicable Outdoor Storage.** Outdoor storage shall be limited only to the following recreational vehicles: “camping trailer”, “fifth-wheel trailer”, or “motor home” as those terms are defined by §340.01, Wis. Stats., as well as boat trailers and boats, trailered snowmobiles, trailered jet-ski(s). All other vehicles, equipment and other items are prohibited from being stored within such outdoor storage area and on the lot.
 - ii. **Location.** No outdoor storage area shall be located between the principal building(s) and a front lot line.

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- iii. **Outdoor lighting.** All outdoor lighting used to illuminate such outdoor storage area shall comply with the outdoor lighting requirements of this chapter.
- iv. **Surface material.** The surface material of the outdoor storage area and driveway leading from the lot line to such outdoor storage area shall be concrete or asphalt.
- v. **Setbacks requirements.** The surface material of the outdoor storage area shall be located a minimum of fifteen (15) feet from a side and/or rear lot line.
- vi. **Security requirements.** The perimeter (outer boundary) of the outdoor storage areas shall be secured with a continuous (with no break points) minimum eight (8) foot high fence or with continuous (with no break points) exterior building walls of existing and/or proposed buildings on the site or parcel or combinations of a continuous (with no break points) minimum eight (8) foot high fence and exterior building walls of existing and/or proposed buildings on the site or parcel in order to minimize unauthorized access to outdoor storage area, unless otherwise specified in this subsection.
- vii. **Screening requirements.**
 - 1. The perimeter (outer boundary) of the outdoor storage areas shall be screened with a continuous (with no break points) minimum eight (8) foot high opaque fence or continuous (with no break points) exterior building walls of existing and/or proposed buildings on the site or parcel or combinations of a continuous (with no break points) minimum eight (8) foot high opaque fence and exterior building walls of existing and/or proposed buildings on the site or parcel in order to minimize unauthorized access to the outdoor storage area and minimize visual impact of recreational vehicles stored in such area, unless otherwise specified in this subsection.
 - 2. Where outdoor storage areas for recreational vehicles are proposed on parcels which abut a residential zoning district, a continuous staggered row of evergreens plantings shall be installed between the entire length of the opaque fencing and the lot line which abuts a residential zoning district but not including a gate, to soften the visual effect of the fencing. Evergreens shall be a minimum of six (6) feet high at the time of planting. The number of evergreens shall be determined and installed in accordance with the requirements with the species spacing and care requirements.
 - 3. The following shall apply to opaque fences abutting a street:
 - a. **Front lot line setback:** Eight (8) feet minimum.
 - b. **Fence height:** Eight (8) feet minimum.
 - c. **Vision corner:** Fences shall comply with vision corner requirements of this chapter.
 - d. **Design:** Chain-link or cyclone fences constructed of woven wire are not allowed.
 - e. **Landscaping:** A continuous staggered row of evergreens and deciduous plantings shall be installed between the entire length of the opaque fence and the front lot line but not including a gate, to soften the visual effect of the fencing and use. Evergreens and deciduous plantings shall be a minimum of four (4) to five (5) feet high at the time of planting. The number of evergreens and deciduous plantings shall be determined and installed in accordance with the requirements with the species spacing and care requirements.

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4. **Exceptions to perimeter fence and landscaping location.** Any request or necessity for locating a fence, opaque fence and/or evergreens and deciduous plantings other than along perimeter of the outdoor storage area, shall require review and approval of an alternate location as part of the site plan review and approval process for outdoor storage areas located in the M-2 Zoning District. Any approval action of alternate fence, opaque fence and/or evergreen and deciduous planting locations, shall be based upon the following criteria:
 - a. The ability of the fence or opaque fence to maintain a continuous flow (with no break points) beyond the perimeter of the outdoor storage area.
 - b. Effectiveness of the opaque fence and/or landscape plantings to effectively screen the outdoor storage area in an alternate location; and
 - c. Effectiveness of the fence and/or opaque fence to effectively secure the outdoor storage area in an alternate location;
 - d. Impact an alternative location may have on overall site appearance, vehicular traffic circulation and the functional well-being of the development proposed for the parcel.
5. **Modifications or waivers to screening and landscaping requirements.** Any request for a modification or waiver of the requirements of Section 23-66(h)18.b.vii.1., 2., and 3.e., but not including the minimum fence height dimension requirement identified in Section 23-66(h)18.b.vii.1., shall require review and approval of such modification or waiver as part of the site plan review and approval process for outdoor storage areas located in the M-2 Zoning District. Any approval action for a modification or waiver of the requirements of Section 23-66(h)18.b.vii.1., 2., and 3.e., but not including the minimum fence height dimension requirement identified in Section 23-66(h)18.b.vii.1., shall be based upon one (1) or more of the following conditions exist:
 - a. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree's maturity height due to topography or the location of the outdoor storage area on the lot.
 - b. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree's maturity height due to the presence of required screening, opaque fencing and/or landscaping on the lot.

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- c. The required opaque fence and/or landscaping would be ineffective at the prescribed fence height dimension and/or at the tree's maturity height due to the presence of required screening, opaque fencing and/or landscaping on adjacent developed property and/or the presence of existing street trees located within the adjacent street right-of-way.
- c. **General Conditions.** The following general conditions shall apply to outdoor storage areas for recreational vehicles:
 - i. Recreational vehicles shall not be parked outside of the designated outdoor storage area.
 - ii. Recreational vehicles shall not be used for business, living, sleeping or human habitation purposes.
 - iii. Recreational vehicles shall not be permanently connected to sewer lines, water lines, or electricity.
 - iv. No recreational vehicles are allowed to be stored within the designated outdoor storage area which is not currently licensed or operable.
 - v. The area between the property line and the opaque security fence shall be landscaped and suitable ground cover, such as grass, bark, ornamental gravel or combination thereof.
 - vi. The total combined square foot area of the outdoor storage area but not including the drive aisles within the perimeter of the outdoor storage area shall not exceed the total combined gross floor area of all personal storage (self-storage/mini-warehouse) buildings on the site or parcel.

(19)Microbrewery/Brewpubs and Craft-Distilleries.

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. A total of not more than 10,000 barrels or 310,000 U.S. gallons of fermented malt beverages shall be manufactured on the premises per calendar year in the C-1, C-2 and CBD Zoning Districts.
- c. A total of not more than 100,000 proof gallons of intoxicating liquor shall be manufactured on the premises per calendar year in the C-1, C-2 and CBD Zoning Districts.
- d. Tasting rooms are accessory uses to a Microbrewery/Brewpubs and Craft-Distilleries located in the M-1 and M-2 Zoning District.
- e. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

(Ord 157-24, §1, 11-6-24)

(20)Brewery and Distilleries.

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. Tasting rooms are accessory uses to a Brewery and Distilleries located in the M-1 and M-2 Zoning District.
- c. Retail sales of business merchandise on the brewery and distillery premises shall be an accessory use to the brewery and distillery manufacturing operations.
- d. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

(Ord 158-24, §1, 11-6-24)

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(21) *Winery.*

- a. Shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- b. Tasting rooms are accessory uses to a Winery located in the Ag, M-2 and M-1 Zoning District.
- c. Retail sales of business merchandise on the winery premises shall be an accessory use to the winery manufacturing operations.
- d. All solid waste generated on the premises shall be stored and disposed of in a manner that does not cause a public nuisance affecting public health pursuant to Chapter 12 of the Municipal Code.

(Ord 159-24, §1, 11-6-24)

(22) *Mobile Service Support Structures and Facilities.*

- a. **Purpose.** The purpose of this subsection is to:

1. Regulate by Site Plan Review pursuant to Section 23-570 of this chapter, Building/Electrical Permits and Certificate of Occupancy for: (1) The siting and construction of any new mobile service support structure (cell towers) and facilities; (2) Class 1 collocation which involves the placement of a new mobile service facility on an existing support structure without constructing a free standing support structure for the facility but does need to engage in substantial modification.

Substantial modification includes any of the following:

- i. For structures with an overall height of 200 feet or less, increases the overall height of the structure more than 20 feet.
 - ii. For structures with an overall height of more than 200 feet, increases in the overall height of the structure by 10 percent or more.
 - iii. Measured of the appurtenance add the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless the increase is necessary for collocation.
 - iv. Increases the square footage of an existing equipment compound to a total area by more than 2,500 square feet.
2. Regulate by Building/Electrical Permits and Certificate of Occupancy for: (1) Class 2 collocation which involves the placement of a new mobile service facility on an existing support structure which does not require the need to construct a free standing support structure or engage is a substantial modification of an existing support structure and mobile service facilities.

- b. **Intent.** The intent of this subsection is to:

1. Maintain and ensure that a non-discriminatory, competitive and broad range of telecommunications services and high-quality telecommunications infrastructure, consistent with the Federal Telecommunications Act of 1996 and Wisconsin State Statutes §66.0404 is provided to serve the community, as well as serve as an important and effective part of the City's law enforcement, fire, rescue and emergency response network.
2. Provide a process for obtaining necessary permits for mobile service support structures and facilities while protecting the interests of City citizens.

- c. **Definitions.** All definitions identified in Wisconsin Statutes §66.0404(1) and §66.0406(1) (2021-22), as amended from time to time, are hereby incorporated by reference.

- d. **Exemptions.** The following are exempt from the provisions of this subsection. However, exemptions under this subsection are subject to all other applicable provisions of the Municipal Code.
 1. Amateur radio antennas and towers licensed by the Federal Communications Commission (FCC).
 2. Electronic towers, broadcast towers and broadcasting or receiving antennas and satellite dishes that are an accessory use to agricultural, residential, railroad, temporary, public institutional, commercial, or industrial uses.
 3. Electronic towers, broadcast towers and broadcasting or receiving antennas and satellite dishes including the placement of equipment buildings, shelters or cabinets that are associated with a broadcast station.
 4. Mobile services providing public information coverage of news events of a temporary or emergency nature.
- e. **Additional procedures and special regulations for siting and construction of any New Mobile Service Support Structure (cell tower) and facilities and Class 1 collocations.**
 1. Application Requirements. Applications for Site Plan Review (New Mobile Service Support Structures (cell tower) and Class 1 Collocation) must be completed by any applicant and submitted to the Community Development Department along with the application fee. The application materials must contain all of the following information:
 - i. The name and business address of, and the contact individual for, the property owner and applicant.
 - ii. The location of the proposed or affected support structure.
 - iii. The location of the proposed mobile service facility.
 - iv. All information contained on the application form(s) for Site Plan Review (New Mobile Service Support Structures (cell tower) and Class 1 Collocation) as prescribed by the City. The Community Development Director or their designee may require additional information in writing which is necessary for effective review of the application(s). Such required additional information may be issued at a pre-submittal meeting or at any time during the review process.
 - v. Construction of a new mobile service support structure (cell tower). If the application is to construct a new mobile service support structure (cell tower), a construction plan which describes the proposed mobile service support structure (cell tower) and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the new mobile service support structure (cell tower).
 - vi. Construction of a new mobile service support structure (cell tower). If the application is to construct a new mobile service support structure (cell tower), an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure (cell tower) attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
 - vii. Substantial modification (Class 1 Collocation). If the application is to substantially modify an existing mobile service support structure (cell tower), a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

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2. Response Required. Determination of completeness within ten (10) days of submittal date of the Site Plan Review Application.
 - i. The Community Development Director or their designee shall review the Site Plan Review application materials and determine whether the application is complete. If the application includes all of the information required under this subsection, the application shall be considered complete. If the Community Development Director or their designee finds the application is incomplete, the Community Development Director or their designee shall notify the applicant in writing, within 10 days from the date of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. The applicant may resubmit an application as often as necessary until it is complete.
3. Authority of the Community Development Director or their designee.
 - i. Limitations upon authority. The City review and action for siting and construction of any new mobile service support structure (cell tower) and facilities and Class 1 collocations shall be subject to the limitations imposed by Wisconsin Statutes §66.0404(4).
 - ii. Within 90 days of its receipt of a complete application, the Community Development Director or their designee shall complete all of the following or the applicant may consider the site plan application materials approved, except that the applicant and the Community Development Director or their designee may agree in writing to an extension of the 90 day period:
 1. Make a final decision whether to approve, approve with conditions or deny the site plan application materials pursuant to the applicable regulations contained in the Municipal Code and this subsection.
 2. Review of Collocation Statement. The Community Development Director or their designee may deny site plan application materials if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described below:

If an application is to construct a new mobile service support structure (cell tower), an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure (cell tower) attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
3. Review of Height and Setbacks. The Community Development Director or their designee shall not approve the site plan application materials unless the mobile service support structure (cell tower), including *substantial modifications (Class 1 Collocations)* complies with the following setback requirements:
 - a. Any mobile service support structure (cell tower) that is constructed on to or substantially modified on a parcel of land that *allows* a single-family detached dwelling as a permitted principal use shall be setback from the lot line(s) a distance that equals or exceeds the height of the cell tower;
 - b. Any mobile service support structure (cell tower) that is constructed or substantially modified on a parcel of land that is *adjacent* to a parcel of land that allows a single-

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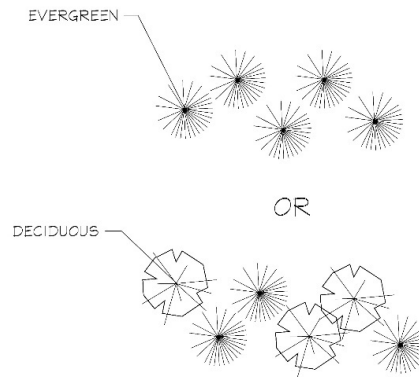
family detached dwelling as permitted principal use shall be setback from the lot line(s) a distance that equals or exceeds the height of the cell tower;

- c. Any mobile service support structure (cell tower) that is constructed on to or substantially modified on a parcel of land that *does not allow* a single-family detached dwelling as permitted principal shall be setback from lot lines a distance equal to the setback(s) of a principal building/structure pursuant to the underlying zoning district development standards;
 - d. Setback modification. Setbacks may be *reduced* to a lesser specified distance if the applicant submits a report stamped by a Wisconsin Registered Professional Engineer that certifies that the mobile service support structure (cell tower) is designed and engineered to collapse upon failure within the lesser specified distance unless the City has and provides the applicant with substantial evidence that the engineering certification is flawed.
4. Notify the applicant, in writing, of the final decision.
 5. If the site plan materials are approved, provide the applicant with the approved site plan application materials.
 6. If the decision is to deny the site plan materials, include with the written notification substantial evidence which supports the decision.
- iii. The City may hire expert consultants to review any technical information submitted with the application. Costs incurred by the City will be billed to the applicant, except that applicant shall not be billed for any travel expenses incurred in the consultant's review of the application materials.
4. Appeal. A party who is aggrieved by the final decision of the Community Development Director or their designee may bring an action in the circuit court of the county in which the proposed development project is to be located.
 5. Special regulations. The following special regulations shall apply to all mobile service support structures (cell towers) and mobile service facilities, including substantial modifications (Class 1 Collocations) and Class 2 Collocations:
 - i. *Federal Requirements*. Each mobile service support structure (cell tower) and mobile service facility must meet or exceed all applicable regulations and standards of the Federal Aviation Administration, Federal Communications Commission, and any other federal agency with authority over the structure and facility that are in effect at the time the structure or facility is placed in service.
 - ii. *Fence Requirements*. All mobile service support structures (cell tower) and mobile service facilities shall be enclosed with a fence at least eight (8) feet in height with a locked gate to discourage trespass on the equipment compound. No fence and gate including any anti-climbing fence shall exceed twelve (12) feet in height. The anti-climbing fence and gate may be equipped with barbed wire or some other appropriate anti-climbing product to keep people from climbing over the fence. Guy anchors of guyed towers shall be similarly protected with anti-climbing fence.
 - iii. *Landscaping Buffer Requirements*. All mobile service support structures (cell towers) and mobile service facilities shall be landscaped with plantings being placed outside and along the perimeter of the equipment compound fencing and shall consist of the following:

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1. The landscaping buffer shall include a staggered row of mature landscaping to minimize the visual impact on adjacent properties and from public streets. For purposes of this subsection, “mature landscaping” shall mean trees, shrubs or other vegetation of a minimum initial height of five (5) feet at the time of planting, which are spaced not more than eight (8) feet apart that will provide the appropriate level of visual screening immediately upon installation.
2. The landscaping buffer shall consist of a landscaped strip at least ten (10) feet wide outside and along the perimeter of equipment compound fencing.

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- iv. *Identification.* Mobile service support structures (cell towers) and mobile service facilities may only display identifying information, such as call letters, frequencies, or Federal Communications Commission registration numbers, if required by federal or state law, regulation, rule, or order.
- v. *Generators.* Back-up generators shall not be used as a primary electrical power source. Back-up generators shall only be operated during power outages or for testing and maintenance purposes.
- vi. *Off-street parking and driveway access.* Service vehicle parking areas for one (1) vehicle and driveway shall be concrete, asphalt, or another permeable hard surface.
- vii. *Non-Interference.* Mobile service facilities shall comply with all relevant Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) standards and shall not interfere with or obstruct existing or proposed public safety, fire protection and other city and private telecommunication operations and facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the City.
- viii. *Other requirements.* Mobile service support structures (cell towers) and mobile service facilities shall comply with all other Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws.
- ix. *Abandonment and Removal.* A mobile service facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. In such circumstances, the following shall apply:
 1. The owner of such mobile service facility or owner(s) of the property where the mobile service facility is located shall remove such structure(s) and foundations and restore the site to its original condition or a condition approved by the Zoning Administrator within ninety (90) days of receipt of an abandonment notice from the Inspections Division. If removal to the satisfaction of the Zoning Administrator does not occur within the ninety (90) days, the City may remove and salvage the mobile service facility at the property owner's expense. If

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there are two (2) or more users of a single mobile service support structure (cell tower), then this provision shall not become effective until all users cease using the mobile service support structure (cell tower) and mobile service facility.

2. The recipient of a permit allowing a mobile service support structure (cell tower) and mobile service facility under this subsection, or current owner or operator, shall notify the Inspections Division and the Community Development Department within 45 days of the date when the mobile service facility is no longer in operation.

- x. *Enforcement and Violations; penalty.* Any person, partnership, corporation or other legal entity that fails to comply with the provisions of this subsection shall be subject to penalty provisions as prescribed in §23-69 of this chapter. Enforcement of this subsection is prescribed in §23-69 of this chapter.

f. Procedures and special regulations for a Class 2 Collocation on existing support structure and other modifications.

1. Applicability. A building and/or electrical permit is required for the placement and construction of the following:

- i. A Class 2 collocation which includes, the placement of a new equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling and associated equipment on an existing support structure.
- ii. Any other modification to a mobile service facility not classified as a substantial modification which includes any of the following:
 1. For structures with an overall height of 200 feet or less, increases the overall height of the structure up to 20 feet.
 2. For structures with an overall height of more than 200 feet, increases in the overall height of the structure by less than 10 percent.
 3. Measured of the appurtenance add the structure as a result of the modification, increases the width of the support structure by less than 20 feet.
 4. Increases the square footage of an existing equipment compound to a total area by 2,500 square feet or less.

2. Application Requirements. A building and/or electrical permit must be completed by the applicant and be submitted to the Inspections Division. In addition to the information required to be submitted for a building and/or electrical permit pursuant the Chapter 4 of the Municipal Code, the applications must contain the following information:

- i. The name and business address of, and the contact individual for, the property owner and applicant.
- ii. The location of the proposed or affected support structure.
- iii. Construction and site plan drawing set pursuant to Chapter 4 of the Municipal Code. The site plan drawing set shall show the applicable information listed for Sheet 1. on the Site Plan Application. Site Plan Layout and elevations drawings showing the applicable information listed for Sheet 2. on the Site Plan Application. Exterior Elevation pursuant to the Application for Site Plan Review (New Mobile Service Support Structures (cell towers) and Class 1 Collocation).

3. Response Required. Determination of completeness within five (5) days of submittal.

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- i. The Inspections Supervisor or their designee shall review the application for a building and/or electrical permit and determine whether the application is complete. If the application includes all of the information required under this subsection, the application shall be consider complete. If the Inspection Supervisor or their designee finds the application is incomplete, the Inspection Supervisor or their designee shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. The applicant may resubmit an application as often as necessary until it is complete.

4. Authority of the Inspections Supervisor or their designee.

- i. Limitations upon authority. The City review and action for Class 2 collocations shall be subject to the limitations imposed by Wisconsin Statutes §66.0404(4).
- ii. Within 45 days of its receipt of a complete application, the Inspections Supervisor or their designee shall complete all of the following or the applicant may consider the building and/or electrical permit approved, except that the applicant and the Inspections Supervisor or their designee may agree in writing to an extension of the 45 day period:
 1. Make a final decision whether to approve, approve with conditions or deny the application pursuant to the applicable regulations contained in the Municipal Code and Section 23-66(h)(22).
 2. Notify the applicant, in writing, of the final decision.
 3. If the application is approved, provide the applicant with the approved relevant building and/or electrical permit(s) and materials.
 4. If the decision is to deny the application(s), include with the written notification substantial evidence which supports the decision.
- iii. The City may hire expert consultants to review any technical information submitted with the application. Costs incurred by the City will be billed to the applicant, except that applicant shall not be billed for any travel expenses incurred in the consultant's review of the application materials.

5. Appeal. A party who is aggrieved by the final decision of the Inspections Supervisor or their designee may bring an action in the circuit court of the county in which the proposed development project is to be located.

(Ord 61-94, §5, 5-18-94; Ord 162-94, §1, 12-21-94; Ord 40-97, §1, 4-16-97; Ord 67-97, §1, 7-17-97; Ord 77-97, §1, 9-17-97; Ord 26-98, §1, 3-18-98; Ord 121-05, §1, 10-25-05; Ord 146-08, §1, 10-7-08; Ord 204-11, §1, 9-27-11; Ord 47-12, §1, 6-6-12; Ord 71-13, §1, 8-13-13; Ord 32-20, §1, 3-24-20; Ord 91-23, §1, 10-10-23; Ord 92-23, §1, 10-10-23; Ord 156-24, §1, 11-6-24; Ord 157-24, §1, 11-6-24; Ord 158-24, §1, 11-6-24; Ord 159-24, §1, 11-6-24)

Sec. 23-67. Variances.

(a) **Purpose.** The purpose of a variance is to allow relief from the strict application of this zoning ordinance as will not be contrary to the public interest and, where owing to special characteristics of the property or use, the literal enforcement of this ordinance would result in unnecessary hardship or in a practical difficulty for the property owner.

(b) **Definitions of variance type.**

- (1) Area variance – In this section, an “area variance” means a modification to a development standard, dimensional, physical, or locational requirement including be not limited to setbacks, lot coverage, area, building height, or density restriction for a use, building and/or structure that is granted by the Board of Appeals under this paragraph.

- (2) Use variance – In this section, a “use variance” means an authorization by the Board of Appeals under this paragraph for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

(c) **Initiation of request for approval of a variance.** A variance request may be taken to the Board of Appeals by any person, firm, corporation, by any officer, department, board, bureau or commission with a legal or equitable interest in the property for which the variance is requested.

(d) **Standards for granting a variance.**

- (1) Area variance – A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this section, for an area variance, by demonstrating that strict compliance with a zoning ordinance would unreasonably prevent the property owner from using the property owner’s property for a permitted purpose or would render conformity with the zoning ordinance unnecessarily burdensome.
- (2) Use variance – A property owner bears the burden of proving “unnecessary hardship,” as that term is used in this section, for a use variance by demonstrating that strict compliance with the zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance.
- (3) In all circumstances, a property owner bears the burden of proving that the unnecessary hardship is based on conditions unique to the property, rather than considerations personal to the property owner, and that the unnecessary hardship was not created by the property owner.

(e) **Procedure.**

- (1) **Application.** Application for a variance shall be filed with the Inspections Supervisor accompanied by a non-refundable application fee that may be amended from time to time, as established by the Common Council by resolution, to cover costs of public notice and administrative review.
- (2) **Public hearing.** After receiving an application, the Board of Appeals shall hold a public hearing on the application for variance which:
 - a. The Board of Appeals shall advertise the request by a Class 2 notice for public hearing;
 - b. The Board of Appeals shall notify all property owners located within one hundred (100) feet of the subject site a minimum of ten (10) days prior to the public hearing.

(f) **Review by the Board of Appeals.** The requested variance shall be reviewed by the Board of Appeals with the standards below:

- (1) **(Area variances) unique physical property limitations standard:** What exceptional or extraordinary circumstances or special factors or unique property limitations including but not limited to an irregular shape of the lot, topography, soil conditions, wetlands, flood plain, environmental contamination or other conditions that are present which apply only to the subject property? In what manner do the factors listed prohibit the development of the subject property?
- (2) **(Area variances) no harm to public interests standard:** Would granting of the proposed variance result in a substantial or undue adverse impact on the public or character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property, or other matters affecting the public health, safety, or general welfare?
- (3) **(Area variances) self-created hardships standard:** Have factors which present the reason for the proposed variance been created by the act of the applicant or previous property owner or their agent?

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- (4) **(Area variances) unnecessary hardships standard:** Would compliance with this Chapter unreasonably prevent the owner from using the property for a permitted purpose or would conformity with this Chapter create an unnecessary burden on the property owner?
- (5) **(Area variances) undue off-street parking and loading hardships standard:** Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unnecessary hardship upon the use of a lot, as contrasted with merely granting an advantage or a convenience and there is an acceptable parking alternative available.
- (6) **(Use variances) no reasonable use standard:** Has the applicant or owner demonstrated that they have “no reasonable use of the property” in absence of a variance?

(g) **Review and determination by Board of Appeals.**

- (1) The Board of Appeals must determine whether a variance request is seeking an area variance or seeking a use variance.
- (2) The Board of Appeals must determine the standard that applies for the grant of the variance.
- (3) The Board of Appeals must require the property owner bear the burden of proof.
- (4) Any variance granted must be due to conditions unique to the property rather than considerations personal to the property owner.
- (5) The variance cannot be granted if the hardship was created by the property owner.
- (6) The concurring vote of four (4) members of the Board shall be necessary to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision. A variance granted under this section runs with the land.

(h) **Relief.** Any person or persons, jointly or severally aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the City, shall have recourse to such relief as is provided by Wisconsin Statutes §62.23(7)(e)(10) or as amended.
(Ord 146-07, §1, 10-9-07; Ord 33-20, §1, 3-24-20)

Sec. 23-68. Administrative appeals.

(a) **Purpose.** The Board of Appeals shall hear and decide cases where it is alleged there is error of law in any order, requirement, decision or determination made by the Community Development Director or Inspections Supervisor in the enforcement of this zoning ordinance.

(b) **Initiation.** An appeal may be filed with the Board of Appeals by any person, firm or corporation, or by any office, department, board, bureau or commission affected by an administrative order, requirement, decision or determination of the Community Development Director or Inspections Supervisor.

(c) **Process.**

- (1) Such appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, by filing with the officer from whom the appeal is taken and with the Board of Appeals a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed was taken.
- (2) The Board of Appeals shall hold a public hearing on the application for appeal advertised by a Class 2 notice for public hearing.

(d) ***Decisions.***

- (1) The Board of Appeals shall hear testimony and evidence concerning appeals, and prepare findings of fact and shall render a final decision on all appeals.
- (2) The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Community Development Director or Inspections Supervisor, or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1c, 11-6-96)

Sec. 23-69. Enforcement.

- (a) ***Enforcing officer.*** The Inspections Supervisor shall be responsible for enforcing the provisions of this chapter.

(b) ***Penalty.*** Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in §1-16 of the Municipal Code.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1b, 11-6-96)

Secs. 23-70 – 23-90. Reserved.

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ARTICLE V. RESIDENTIAL DISTRICTS

Sec. 23-91. AG Agricultural district.

(a) **Purpose.** The AG district is intended for areas of active agricultural use that are subject to future urban or suburban development. Permitted land uses include relatively low density uses such as agriculture and uses which require large sites and relatively limited investment in fixed structures. This zoning district serves as a holding district for land that may be subject to rezoning for purposes other than agricultural uses.

(b) **Principal permitted uses.** The following uses are permitted as of right in the AG district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
	<ul style="list-style-type: none">• Governmental facilities• Public parks or playgrounds	<ul style="list-style-type: none">• Agriculture• Community garden• Greenhouse or greenhouse nursery.• Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)• Nursery, orchards or tree farm• Urban farm pursuant to §23-66(h)(17)• Winery pursuant to §23-66(h)(21)

(Ord 93-23, §1, 10-10-23; Ord 152-24, §1, 11-6-24)

(c) **Accessory uses.** Accessory uses in the AG district may include:

- (1) The accessory uses, buildings and structures specified in §23-43 are permitted as of right in the AG District.
- (2) Bed and breakfast establishments pursuant to §23-48.
- (3) Home occupation pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.
- (5) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 120-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the AG District.

(e) **Special uses.** Special uses in the AG district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none">• None	<ul style="list-style-type: none">• Essential services	<ul style="list-style-type: none">• Electronic towers pursuant to §23-66(h)(1)• Outdoor commercial entertainment pursuant to §23-66(h)(11)• Indoor kennel or outdoor kennel; pursuant to §23-66(h)(12)

(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.** The space limits applicable in the AG district are as follows:

- (1) **Minimum lot area.** Ten (10) acres.
- (2) **Minimum lot width.** One hundred fifty (150) feet.

- (3) **Minimum front yard.** Thirty (30) feet.
- (4) **Minimum rear yard.** Forty (40) feet.
- (5) **Minimum side yard.** Forty (40) feet
- (6) **Maximum building height.** One hundred (100) feet for non-residential uses. Thirty-five (35) feet for residential uses.
- (7) **Maximum lot coverage.** Twenty percent (20%).

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(Ord 121-05, §1, 10-25-05; Ord 83-07, §1, 5-8-07; Ord 90-08, §1, 5-27-08; Ord 147-08, §1, 10-7-08; Ord 48-12, §1, 6-6-12; Ord 49-12, §1, 6-6-12; Ord 34-20, §1, 3-24-20; Ord 93-23, §1, 10-10-23; 120-23, §1, 10-10-23)

Sec. 23-92. R-1A single-family district.

(a) **Purpose.** The R-1A district is intended to provide for, and maintain, residential areas characterized predominately by single family detached dwellings on larger sized lots while protecting residential neighborhoods from the intrusion of incompatible non-residential land uses.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-1A district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> Dwelling, single family, detached 	<ul style="list-style-type: none"> Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52 Day care, adult; serving five (5) or fewer persons Day care, family Family home, adult (A) and (D), pursuant to §23-22 Family home, adult (B) and (C), pursuant to §23-52 Governmental facilities 	<ul style="list-style-type: none"> Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)

(Ord 94-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the R-1A district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-1A district, except for boats or boat trailers greater than twenty-six (26) feet in length.
- (2) Bed and breakfast establishments pursuant to §23-48.
- (3) Home occupation pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.
- (5) Accessory dwelling units pursuant to §23-55.

(6) Junior accessory dwelling units pursuant to §23-56.

(Ord 28-21, §1, 7-7-21)

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(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the R-1A District.

(e) **Special uses.** Special uses in the R-1A district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40-) foot setback from any lot line of the cemetery • Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52 • Day care, group, when located and operated in an educational institution, place of worship or semi-public building. • Educational institution; business, technical or vocational school • Educational institution; college or university. • Educational institution; elementary school, junior high school, or high school • Essential services • Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure • Marina and/or boat landing. • Place of worship • Public parks or playgrounds • Recreation facility, non-profit • Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	<ul style="list-style-type: none"> • Electronic towers pursuant to §23-66(h)(1) • Recycling collection point; pursuant to §23-66(h)(14) • Urban farm pursuant to §23-66(h)(17)

(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.** The space limits applicable in the R-1A district are as follows:

- (1) **Minimum lot area.** Eight thousand (8,000) square feet.
- (2) **Maximum lot coverage.** Forty percent (40%).
- (3) **Minimum lot width.** Seventy (70) feet.
- (4) **Minimum front yard.** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- (5) **Minimum rear yard.** Twenty-five (25) feet.
- (6) **Minimum side yard.** Eight (8) feet.
- (7) **Maximum building height.** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

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(Ord 121-05, §1, 10-25-05; Ord 84-07, §1, 5-8-07; Ord 91-08, §1, 5-27-08; Ord 148-08, §1, 10-7-08; Ord 35-20, §1, 3-24-20; Ord 94-23, §1, 10-10-23)

Sec. 23-93. R-1B single-family district.

(a) **Purpose.** The R-1B district is intended to provide for and maintain residential areas characterized predominately by single-family, detached dwellings on medium sized lots while protecting residential neighborhoods from the intrusion of incompatible non-residential uses.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-1B district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> Dwelling, single-family, detached 	<ul style="list-style-type: none"> Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52 Day care, adult; serving five (5) or fewer persons Day care, family Family home, adult (A) and (D), pursuant to §23-22 Family home, adult (B) and (C), pursuant to §23-22 and §23-52 Governmental facilities 	<ul style="list-style-type: none"> Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)

(Ord 95-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the R-1B district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-1B district, except for boats or boat trailers greater than twenty-six (26) feet in length.
- (2) Bed and breakfast establishments pursuant to §23-48.
- (3) Home occupation pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.
- (5) Accessory dwelling units pursuant to §23-55.
- (6) Junior accessory dwelling units pursuant to §23-56.

(Ord 29-21, §1, 7-7-21)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the R-1B District.

(e) **Special uses.** Special uses in the R-1B district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40) foot setback from any lot line of the cemetery Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52 Day care, group, when located and operated in an educational institution, place of worship or semi-public building Educational institution; business, technical 	<ul style="list-style-type: none"> Electronic towers pursuant to §23-66(h)(1) Recycling collection point pursuant to §23-66(h)(14) Urban farm pursuant to §23-66(h)(17)

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Residential Uses	Public and Semi Public Uses	Non-Residential Uses
	<ul style="list-style-type: none"> or vocational school • Educational institution; college or university. • Educational institution; elementary school, junior high school or high school • Essential services • Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure. • Marina and/or boat landing. • Place of worship • Public parks or playgrounds • Recreation facility, non-profit • Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	

(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.** The space limits applicable in the R-1B district are as follows:

- (1) **Minimum lot area.** Six thousand (6,000) square feet.
- (2) **Maximum lot coverage.** Fifty percent (50%).
- (3) **Minimum lot width.** Fifty (50) feet.
- (4) **Minimum front yard.** Twenty (20) feet (twenty-five (25) foot minimum on arterial street).
- (5) **Minimum rear yard.** Twenty-five (25) feet.
- (6) **Minimum side yard.** Six (6) feet.
- (7) **Maximum building height.** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(Ord 121-05, §1, 10-25-05; Ord 85-07, §1, 5-8-07; Ord 118-07, §1, 7-24-07; Ord 92-08, §1, 5-27-08; Ord 149-08, §1, 10-7-08; Ord 51-12, §1, 6-6-12; Ord 36-20, §1, 3-24-20; Ord 95-23, §1, 10-10-23)

Sec. 23-94. R-1C central city residential district.

(a) **Purpose.** The R-1C district is intended to provide for the conservation and revitalization of residential areas located in the oldest parts of the City characterized predominately by single-family, detached dwellings on small sized lots of record while protecting residential neighborhoods from the intrusion of incompatible non-residential uses.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-1C district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • Dwelling, single-family, detached 	<ul style="list-style-type: none"> • Community living arrangements service eight (8) or fewer persons, pursuant to §23-22 and §23-52 • Day care, adult; serving five (5) or 	<ul style="list-style-type: none"> • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)

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Residential Uses	Public and Semi Public Uses	Non-Residential Uses
	fewer persons <ul style="list-style-type: none"> • Day care, family • Family home, adult (A) and (D), pursuant to §23-22 • Family home, adult (B) and (C), pursuant to §23-22 and §23-52 • Governmental facilities 	

(Ord 96-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the R-1C district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-1C district, except for boats or boat trailers greater than twenty-six (26) feet in length.
- (2) Bed and breakfast establishments pursuant to §23-48.
- (3) Home occupation pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.
- (5) Accessory dwelling units pursuant to §23-55.
- (6) Junior accessory dwelling units pursuant to §23-56.

(Ord 30-21, §1, 7-7-21)

(d) **Temporary uses and structures.** Temporary uses and structures specified in Section 23-54 may be permitted in the R-1C District.

(e) **Special uses.** Special uses in the R-1C district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
	<ul style="list-style-type: none"> • Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52 • Day care, group, when located and operated in an educational institution, place of worship or semi-public building • Essential services • Place of worship • Public parks or playgrounds • Recreation facility, non-profit • Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	<ul style="list-style-type: none"> • Electronic towers pursuant to §23-66(h)(1) • Recycling collection point pursuant to §23-66(h)(14) • Urban farm pursuant to §23-66(h)(17)

(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.** The space limits applicable in the R-1C district are as follows:

(1) **Minimum lot area:**

- a. Four thousand (4,000) square feet for single-family detached dwellings.
- b. Six thousand (6,000) square feet for all other uses.

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(2) **Maximum lot coverage.** Seventy-five percent (75%).

(3) **Minimum lot width.**

- a. Forty (40) feet for single-family detached dwellings.
- b. Fifty (50) feet for all other uses.

(4) **Minimum front yard.**

- a. Ten (10) feet.
- b. Twenty (20) feet on an arterial street.

(5) **Minimum rear yard.** Twenty-five (25) feet.

(6) **Minimum side yard.**

- a. Five (5) feet for single-family dwellings.
- b. Six (6) feet for all other uses.

(7) **Maximum building height.** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(Ord 121-05, §1, 10-25-05; Ord 86-07, §1, 5-8-07; Ord 19-07, §1, 7-24-07; Ord 93-08, §1, 5-27-08; Ord 150-08, §1, 10-7-08; Ord 52-12, §1, 6-6-12; Ord 37-20, §1, 3-24-20; Ord 96-23, §1, 10-10-23)

Sec. 23-95. R-2 two-family district.

(a) **Purpose.** The R-2 district is intended to provide for and maintain residential areas characterized by single-family detached and two- (2-) family dwelling units. Increased densities and the introduction of two- (2-) family housing types are intended to provide for greater housing options for owners and renters while maintaining the basic qualities of a moderately dense residential neighborhood.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-2 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none">• Dwelling, single-family, detached• Dwelling, two-family (duplex)• Dwelling, zero lot line two-family	<ul style="list-style-type: none">• Community living arrangements serving eight (8) or fewer persons, pursuant to §23-22 and §23-52• Day care, adult; serving five (5) or fewer persons• Day care, family• Family home, adult (A) and (D), pursuant to §23-22• Family home, adult (B) and (C), pursuant to §23-22 and §23-52• Governmental facilities	<ul style="list-style-type: none">• Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)

(Ord 97-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the R-2 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-2 district, except for boats or boat trailers greater than twenty-six (26) feet in length.

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(2) Bed and breakfast establishments pursuant to §23-48.

(3) Home occupation pursuant to §23-45.

(4) Fences and walls pursuant to §23-44.

(5) Accessory dwelling units pursuant to §23-55.

(6) Junior accessory dwelling units pursuant to §23-56.

(Ord 31-21, §1, 7-7-21)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the R-2 District.

(e) **Special uses.** Special uses in the R-2 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40-) foot setback from any lot line of the cemetery Community living arrangements serving nine (9) to fifteen (15) persons, pursuant to §23-22 and §23-52 Day care, group, when located and operated in an educational institution, place of worship or semi-public building. Educational institution; business, technical or vocational school Educational institution; college or university. Educational institution; elementary school, junior high school, or high school. Essential services Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure Marina and/or boat landing Place of worship Public parks or playgrounds Recreation facility, non-profit Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	<ul style="list-style-type: none"> Electronic towers pursuant to §23-66(h)(1) Recycling collection point pursuant to §23-66(h)(14) Urban farms pursuant to §23-66(h)(17)

(f) **Site plan.** Site Plan requirements are set forth in §23-570, Site plan review and approval.

(g) **Development standards.**

(1) **Two-family dwellings (duplex) and other uses.**

a. **Minimum lot area, Single-family dwelling (detached):** Six thousand (6,000) square feet.

b. **Minimum lot area, Two-family dwellings (two-story duplex):** Seven thousand (7,000) square feet.

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- c. **Minimum lot area, Two-family dwellings (single story duplex):** Nine thousand (9,000) square feet.
 - d. **Minimum lot area, All other uses:** Seven thousand (7,000) square feet.
 - e. **Minimum lot width, Single-family dwelling:** Fifty (50) feet.
 - f. **Minimum lot width, All other uses:** (70 feet).
 - g. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
 - h. **Minimum rear lot line setback:** Twenty-five (25) feet.
 - i. **Minimum side lot line setback:** Six (6) feet.
 - j. **Maximum lot coverage:** Sixty percent (60%).
 - k. **Maximum building height:** Thirty-five (35) feet.
- (2) **Zero lot line Two-family dwellings.**
- a. **Minimum lot area:** Three thousand (3,000) square feet per dwelling.
 - b. **Minimum lot width:** Thirty (30) feet per dwelling.
 - c. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
 - d. **Minimum rear lot line setback:** Twenty-five (25) feet.
 - e. **Minimum side lot line setback:** Zero (0) feet on one (1) side with a common wall provided that:
 - i. The opposite side yard being a minimum of six (6) feet.
 - ii. Patios and decks may have a zero setback from the zero lot line side yard setback.
 - iii. Driveways may be separate or shared.
 - iv. All state and local building code requirements shall be met for a zero-lot line two-family dwelling.
 - v. Every zero lot line two-family dwelling constructed after March 24, 2020 shall be constructed with identical materials.
 - vi. For the purpose of this subsection the term “identical materials” means exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc.
 - vii. For the purpose of this subsection the term “similar materials” means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, color, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. or alike; having a general resemblance, although allowing for some degree of difference. This term is to be interpreted to mean that one thing has a resemblance in many respects, nearly corresponds, in somewhat like, or has a general likeness to some other thing but not identical in form and substance.
 - viii. Restrictive covenants shall be recorded at the county register or deeds, providing declarations and or bylaws similar to those typically recorded on a declaration of condominium.

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1. If the driveway is shared, the maintenance and use standards for the shared driveway shall be part of said covenants.
2. Include a note that reads, *“The parties hereto agree that the aesthetics of the units are important to the value of the building. Therefore, any subsequent repairs or maintenance performed by a unit owner to the exterior of their portion of the zero lot line two-family dwelling shall use at a minimum materials similar with those materials already incorporated into the building if identical materials are not incorporated into the repair or maintenance project. Each party may agree in writing to change the original color of the building so long as the color change applies to each unit. No party may change the color of the building so that it is different than the other unit.”*
3. Said covenants shall provide for mediation of any and all disputes between owners of each dwelling unit and third party with regard to construction, use and maintenance of the real property.
4. Said covenants shall specifically state the City of Appleton and all approving authorities shall not be held responsible for same, and that said covenants shall insure to all heirs and assigns.
5. Proof of said recorded covenants or subsequently amended shall be submitted to the Community Development Department.
- ix. Each dwelling unit shall have separate sewer and water lines and other separate utility lines entering each dwelling unit and also separate sump pump.
- x. Easements shall be provided upon each lot as may be necessary for ingress and egress, water, sewer and all other utility services.
- xi. The zero lot line parcel shall be divided by certified survey map or subdivision plat pursuant to Chapter 17 Subdivisions of the Municipal Code.
 1. A restrictive endorsement shall be placed on the face of the CSM or plat that reads, *“When zero lot line two-family dwelling units are created, matters of mutual concern to the adjacent property owners due to construction, catastrophe, use, repair and maintenance shall be guarded against by private/restrictive covenants and deed restrictions, and no approving authority shall be held responsible for the enforcement of same.”*
 2. A copy of said Restrictive covenants shall be submitted with the initial application for certified survey map or subdivision plat approval.

f. **Maximum building height:** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.

(Ord 121-05, §1, 10-25-05; Ord 87-07, §1, 5-8-07; Ord 94-08, §1, 5-27-08; Ord 151-08, §1, 10-7-08; Ord 53-12, §1, 6-6-12; Ord 38-20, §1, 3-24-20; Ord 97-23, §1, 10-10-23)

Sec. 23-96. R-3 multifamily district.

(a) **Purpose.** The R-3 district is intended to provide for and maintain residential areas characterized by multiple family dwellings, while maintaining the basic qualities of a dense residential neighborhood, which may include other housing types and institutional and limited non-residential uses.

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(b) **Principal permitted uses.** The following principal uses are permitted as of right in the R-3 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> Assisted living facility or retirement home Dwelling, multi-family, of three (3) or more units, apartment building, or townhouse Dwelling, single-family, detached Dwelling, two-family (duplex) Dwelling, zero lot line two-family Nursing or convalescent home Residential care apartment complex 	<ul style="list-style-type: none"> Community living arrangements serving fifteen (15) or fewer persons, pursuant to §23-22 and §23-52 Day care, adult; serving five (5) or fewer persons Day care, family Family home, adult (A) and (D), pursuant to §23-22 Family home, adult (B) and (C), pursuant to §23-22 and §23-52 Governmental facilities 	<ul style="list-style-type: none"> Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)

(Ord 98-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the R-3 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the R-3 district, except for boats or boat trailers greater than twenty-six (26) feet in length.
- (2) Bed and breakfast establishments pursuant to §23-48.
- (3) Home occupation pursuant to §23-45.
- (4) Fences and walls pursuant to §23-44.
- (5) Accessory dwelling units pursuant to §23-55.
- (6) Junior accessory dwelling units pursuant to §23-56.
- (7) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 32-21, §1, 7-7-21; Ord 121-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the R-3 District.

(e) **Special uses.** Special uses in the R-3 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> Manufactured and mobile home communities; pursuant to §23-66(h)(10) and Chapter 11 of the Municipal Code 	<ul style="list-style-type: none"> Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40) foot setback from any lot line of the cemetery Community living arrangements serving sixteen (16) or more persons, pursuant to §23-22 and §23-52 Day care, group, when located and operated in an educational institution, place of worship or semi-public building Educational institution; business, technical or vocational school Educational institution; college or university Educational institution; elementary school, junior high school or high school Essential services 	<ul style="list-style-type: none"> Electronic towers pursuant to §23-66(h)(1) Recycling collection point pursuant to §23-66(h)(14) Shelter facility Urban farms pursuant to §23-66(h)(17)

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Residential Uses	Public and Semi Public Uses	Non-Residential Uses
	<ul style="list-style-type: none"> • Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure • Group home, adult • Group housing • Marina and/or boat landing • Place of worship • Public parks or playgrounds • Recreation facility, non-profit • Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	

(f) **Site plan.** Prior to obtaining a building permit for any use except for one- (1-) and two- (2-) family dwellings on land in the R-3 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Development standards.**

(1) **Single-Family Dwelling, Detached:**

- a. **Minimum lot area:** Six thousand (6,000) square feet.
- b. **Minimum lot width:** Fifty (50) feet.
- c. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- d. **Minimum rear lot line setback:** Twenty-five (25) feet.
- e. **Minimum side lot line setback:** Six (6) feet.
- f. **Maximum lot coverage:** Seventy percent (70%).
- g. **Maximum building height:** Thirty-five (35) feet.

(2) **Two-family Dwellings (duplex):**

- a. **Minimum lot area, Two-family dwellings (two-story duplex):** Seven thousand (7,000) square feet.
- b. **Minimum lot area, Two-family dwellings (single story duplex):** Nine thousand (9,000) square feet.
- c. **Minimum lot width:** Seventy (70) feet.
- d. **Minimum front lot line setback:** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- e. **Minimum rear lot line setback:** Twenty-five (25) feet.
- f. **Minimum side lot line setback:** Six (6) feet.
- g. **Maximum lot coverage:** Seventy percent (70%).
- h. **Maximum building height:** Thirty-five (35) feet.

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(3) *Multi-family Dwellings and Other Uses:*

- a. ***Minimum lot area, Multi-family dwellings:*** One thousand five-hundred (1,500) square feet per dwelling unit.
- b. ***Minimum lot area, All other uses:*** Seven thousand (7,000) square feet.
- c. ***Minimum lot width:*** Eighty (80) feet.
- d. ***Minimum front lot line setback:*** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- e. ***Minimum rear lot line setback:*** Thirty-five (35) feet.
- f. ***Minimum side lot line setback:*** Twenty (20) feet.
- g. ***Minimum distance between multi-family buildings:*** Twelve (12) feet.
- h. ***Maximum lot coverage:*** Seventy percent (70%).
- i. ***Maximum height:*** Forty-five (45) feet.

(4) *Zero Lot Line Two-family Dwelling:*

- a. ***Minimum lot area:*** Three thousand (3,000) square feet per dwelling.
- b. ***Minimum lot width:*** Thirty (30) feet per dwelling.
- c. ***Minimum front lot line setback:*** Twenty (20) feet (twenty-five (25) feet minimum on arterial street).
- d. ***Minimum rear lot line setback:*** Twenty-five (25) feet.
- e. ***Minimum side lot line setback:*** Zero (0) feet on one (1) side with a common wall provided that:
 - i. The opposite side yard being a minimum of six (6) feet.
 - ii. Patios and decks may have a zero setback from the zero lot line side yard setback.
 - iii. Driveways may be separate or shared.
 - iv. All state and local building code requirements shall be met for a zero-lot line two-family dwelling.
 - v. Every zero lot line two-family dwelling constructed after March 24, 2020 shall be constructed with identical materials.
 - vi. For the purpose of this subsection the term “identical materials” means exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc.
 - vii. For the purpose of this subsection the term “similar materials” means nearly but not exactly the same in design, color, scale, architectural appearance, and other visual qualities including, but not limited to, alignment, character, color, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. or alike; having a general resemblance, although allowing for some degree of difference. This term is to be interpreted to mean that one thing has a resemblance in many respects, nearly corresponds, in somewhat like, or has a general likeness to some other thing but not identical in form and substance.

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- viii. Restrictive covenants shall be recorded at the county register or deeds, providing declarations and or bylaws similar to those typically recorded on a declaration of condominium.
1. If the driveway is shared, the maintenance and use standards for the shared driveway shall be part of said covenants.
 2. Include a note that reads, *“The parties hereto agree that the aesthetics of the units are important to the value of the building. Therefore, any subsequent repairs or maintenance performed by a unit owner to the exterior of their portion of the zero lot line two-family dwelling shall use at a minimum materials similar with those materials already incorporated into the building if identical materials are not incorporated into the repair or maintenance project. Each party may agree in writing to change the original color of the building so long as the color change applies to each unit. No party may change the color of the building so that it is different than the other unit.”*
 3. Said covenants shall provide for mediation of any and all disputes between owners of each dwelling unit and third party with regard to construction, use and maintenance of the real property.
 4. Said covenants shall specifically state the City of Appleton and all approving authorities shall not be held responsible for same, and that said covenants shall insure to all heirs and assigns.
 5. Proof of said recorded covenants or subsequently amended shall be submitted to the Community Development Department.
- ix. Each dwelling unit shall have separate sewer and water lines and other separate utility lines entering each dwelling unit and also separate sump pump.
- x. Easements shall be provided upon each lot as may be necessary for ingress and egress, water, sewer and all other utility services.
- xi. The zero lot line parcel shall be divided by certified survey map or subdivision plat pursuant to Chapter 17 Subdivisions of the Municipal Code.
1. A restrictive endorsement shall be placed on the face of the CSM or plat that reads, *“When zero lot line two-family dwelling units are created, matters of mutual concern to the adjacent property owners due to construction, catastrophe, use, repair and maintenance shall be guarded against by private/restrictive covenants and deed restrictions, and no approving authority shall be held responsible for the enforcement of same.”*
 2. A copy of said Restrictive covenants shall be submitted with the initial application for certified survey map or subdivision plat approval.

f. **Maximum building height:** Thirty-five (35) feet.

(h) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(Ord 121-05, §1, 10-25-05; Ord 88-07, §1, 5-8-07; Ord 85-08, §1, 5-27-08; Ord 137-08, §1, 10-7-08; Ord 152-08, §1, 10-7-08; Ord 54-12, §1, 6-6-12; Ord 39-20, §1, 3-24-20; Ord 98-23, §1, 10-10-23; Ord 121-23, §1, 10-10-23)

Secs. 23-97 – 23-99. Reserved.

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Sec. 23-100. P-I public institutional district.

(a) **Purpose.** The P-I district is intended to provide for public and institutional uses and buildings, utilized by the community, and to provide open space standards where necessary for the protection of adjacent residential properties.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the P-I district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> Assisted living facility or retirement home Nursing or convalescent home 	<ul style="list-style-type: none"> Community living arrangements serving one (1) or more persons, pursuant to §23-22 and §23-52 Educational institution; business, technical or vocational school Educational institution; college or university Educational institution; elementary school, junior high school, or high school Family home, adult (A) and (D), pursuant to §23-22 Family home, adult (B) and (C), pursuant to §23-22 and §23-52 Governmental facility Group housing Hospital Marina and/or boat landing Museum Place of worship Public parks or playgrounds Recreation facility, non-profit Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	<ul style="list-style-type: none"> Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) Multi-tenant buildings

(Ord 99-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the P-I district may include:

(1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the P-I district.

(2) Fences and walls pursuant to §23-44.

(3) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 122-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the P-I District.

(e) **Special uses.** Special uses in the P-I district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Cemetery, including a mausoleum, provided that a mausoleum shall have a forty- (40-) foot setback from any lot line of the cemetery Day care, group, when located and operated in an educational institution, place of worship or semi-public building Essential services 	<ul style="list-style-type: none"> Circus or carnival. However, carnival rides or midways shall not be located within three hundred (300) feet of any residential district and shall be pursuant to §23-66(h)(7) Community garden

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	<ul style="list-style-type: none"> • Golf course. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure 	<ul style="list-style-type: none"> • Electronic towers pursuant to §23-66(h)(1) • Helicopter landing pads pursuant to §23-66(h)(9) • Parking garage • Recycling collection point pursuant to §23-66(h)(14) • Recycling and waste recovery center pursuant to §23-66(h)(13) • Shelter facility • Urban farms pursuant to §23-66(h)(17)
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(Ord 100-23, §1, 10-10-23)

(f) **Site plan.** Prior to obtaining a building permit on any land in the P-I district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) **Development standards.** The space limits applicable in the P-I district are as follows:

(1) **Minimum lot area.** None.

(2) **Maximum lot coverage.** Seventy percent (70%).

(3) **Minimum lot width.** None.

(4) **Minimum front yard.** Twenty (20) feet plus an additional one (1) foot for each two (2) feet that the building or structure exceeds thirty-five (35) feet in height.

(5) **Minimum rear yard.** Twenty (20) feet plus an additional one (1) foot for each two (2) feet that the building or structure exceeds thirty-five (35) feet in height.

(6) **Minimum side yard.** Twenty (20) feet plus an additional one (1) foot for each two (2) feet that the building or structure exceeds thirty-five (35) feet in height.

(7) **Maximum building height.** Sixty (60) feet.

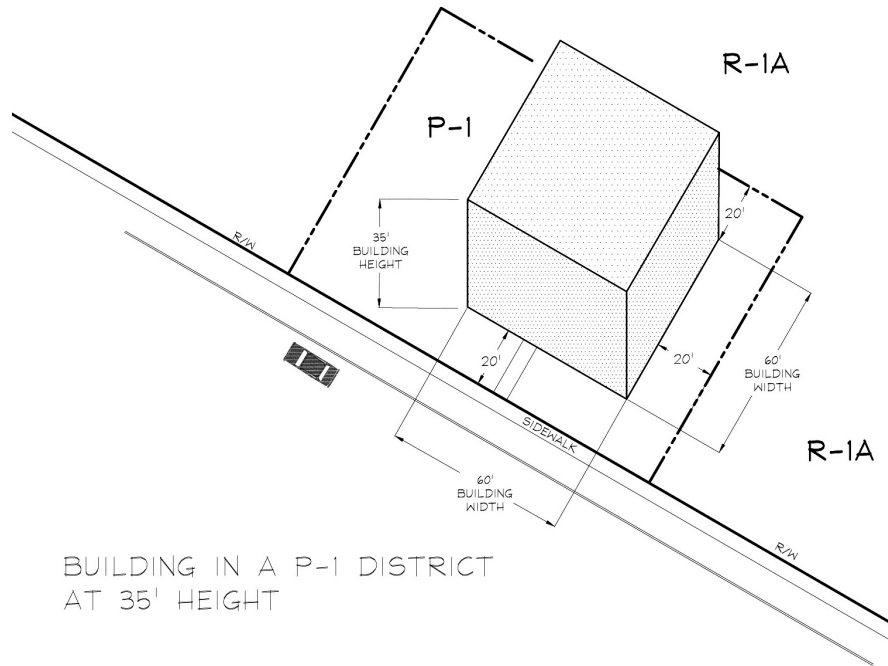
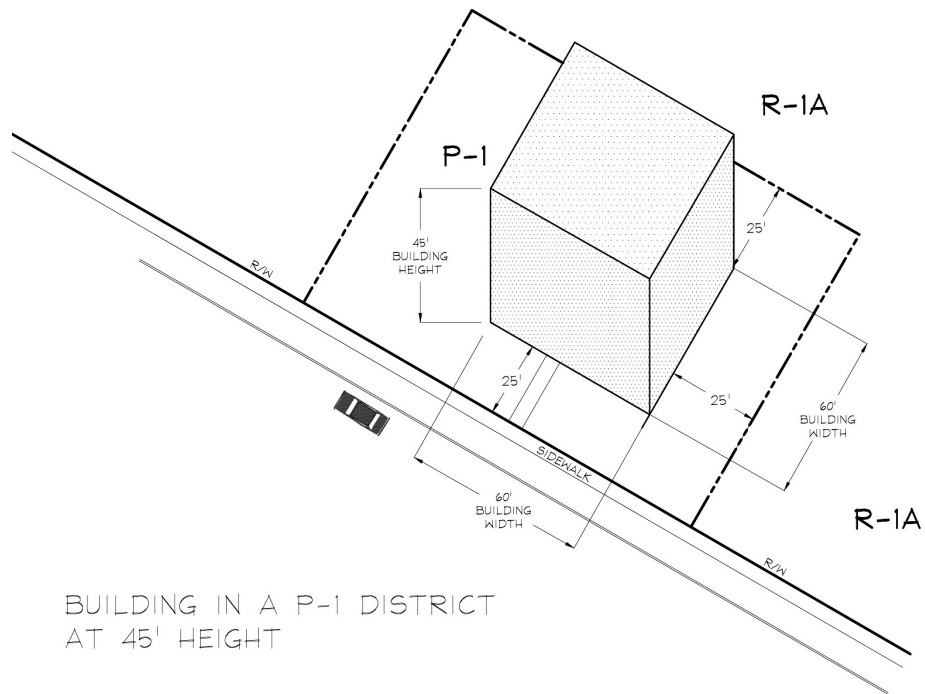
(Ord 121-05, §1, 10-25-05; Ord 89-07, §1, 5-8-07; Ord 96-08, §1, 5-27-08; Ord 138-08, §1, 10-7-08; Ord 153-08, §1, 10-7-08; Ord 55-12, §1, 6-6-12; Ord 56-12, §1, 6-6-12; Ord 99-23, §1, 10-10-23; Ord 100-23, §1, 10-10-23; Ord 122-23, §1, 10-10-23)

The P-I District Setback Example is located on the following page.

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P-I Setback Example BUILDING SETBACKS



Sec. 23-101. NC nature conservancy district.

(a) **Purpose.** The purpose of the NC nature conservancy district is to:

- (1) Discourage development and disturbance to the natural environment in areas with unique features.
- (2) Give primary consideration to outdoor recreation and forestry pursuits.
- (3) Provide areas where native flora and fauna may prosper in a natural habitat.

(b) **Principal permitted uses.** The following uses are permitted within the NC nature conservancy district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Bicycle or hiking trails • Dams, power stations, transmission lines • Fishing • Harvesting of wild crops such as marsh hay, mushrooms, moss, berries, fruit trees and tree seeds • Management of forestry and fish • Public or private parks which provide passive recreation pursuits • Water pumping and storage facilities 	<ul style="list-style-type: none"> • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22)

(Ord 101-23, §1, 10-10-23)

(c) **Accessory uses.** The accessory use, buildings and structures set forth in §23-43 may be permitted as of right in the NC district.

- (1) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 123-23, §1, 10-10-23)

(d) **Prohibited uses and activities.** The following uses and activities shall be prohibited within the NC nature conservancy district:

- (1) Structures for human habitation.
- (2) Any placement of fill within the conservancy districts.

(e) **Development standards.** The space limits applicable in the NC nature conservancy district are as follows:

- (1) **Minimum lot area.** None.
- (2) **Minimum lot width.** None.
- (3) **Minimum front yard.** Twenty-five (25) feet.
- (4) **Minimum rear yard.** Twenty-five (25) feet.
- (5) **Minimum side yard.** Twelve (12) feet.
- (6) **Maximum building height.** Twenty-five (25) feet.

(f) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.

(g) **Tree cutting and shrubbery clearing prohibited.** Parcels lying within the NC nature conservancy district shall not be clear-cut of trees, shrubbery or underbrush. No more than ten percent (10%) of the natural vegetation shall be removed from a parcel in any one (1) given calendar year. Normal pruning, trimming, and shearing of vegetation; removal of dead, Supp. #100

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diseased, insect-infested vegetation; and silvicultural thinning conducted under the recommendation of a forester shall be exempt from this restriction.

(Ord 138-06, §1, 11-21-06; Ord 97-08, §1, 5-27-08; Ord 11-14, §1, 4-8-14; Ord 101-23, §1, 10-10-23; Ord 123-23, §1, 10-10-23)

Secs. 23-102 – 23-110. Reserved.

ARTICLE VI. COMMERCIAL DISTRICTS

Sec. 23-111. C-O commercial office district

(a) **Purpose.** This district is intended to provide a buffer between commercial and residential areas by permitting professional or business offices that serve the general public. Stringent setback and landscaping standards required in this district will create a visual screen for adjacent properties.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the C-O district.

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Clubs • Educational institutions; business, technical or vocational school • Educational institutions; college or university • Governmental facilities • Museums • Places of worship • Public parks or playgrounds • Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	<ul style="list-style-type: none"> • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) • Multi-tenant building • Offices • Personal services • Professional services • Veterinarian clinics

(Ord 102-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the C-O district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-O district.
- (2) Residential dwellings at least ten (10) feet above the street grade of the building.
- (3) Day care, group; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.
- (4) Drive through facility pursuant to §23-49.
- (5) Home occupation pursuant to §23-45.
- (6) Fences and walls pursuant to §23-44.
- (7) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 124-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the C-O District.

(e) **Special uses.** Special uses in the C-O district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Educational institutions; elementary school, junior high school, or high school • Essential services • Golf courses. However the clubhouse, practice driving range, practice greens or miniature golf course shall not be located closer than two hundred (200) feet from any residential structure 	<ul style="list-style-type: none"> • Electronic towers pursuant to §23-66(h)(1) • Helicopter landing pads pursuant to §23-66(h)(9) • Parking garages • Recycling collection point pursuant to §23-66(h)(14)

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(Ord 103-23, §1, 10-10-23)

(f) **Site plan.** Prior to obtaining a building permit on any land in the C-O district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) **Development standards.** The space limits applicable in the C-O district are as follows:

(1) **Minimum lot area.** Nine thousand (9,000) square feet.

(2) **Maximum lot coverage.** Sixty percent (60%).

(3) **Minimum lot width.** Eighty (80) feet.

(4) **Minimum front yard.** Twenty (20) feet.

(5) **Minimum rear yard:**

a. Twenty-five (25) feet.

b. Forty (40) feet if abutting a residentially-zoned district.

(6) **Minimum side yard:**

a. Ten (10) feet.

b. Forty (40) feet if abutting a residentially-zoned district.

(7) **Maximum building height.** Thirty-five (35) feet.

(Ord 121-05, §1, 10-25-05; Ord 154-08, §1, 10-7-08; Ord 102-23, §1, 10-10-23; Ord 103-23, §1, 10-10-23; Ord 124-23, §1, 10-10-23)

Sec. 23-112. C-1 neighborhood mixed use district.

(a) **Purpose.** The C-1 district is intended to provide for mixed use areas, including a range of commercial and denser residential uses. Development is intended to be pedestrian-oriented, with businesses and services that are part of the fabric of the neighborhood and allow residents to meet daily needs on foot, bicycle, and public transit. Development standards provide added flexibility to encourage redevelopment along commercial corridors, without being detrimental to established residential neighborhoods.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the C-1 district.

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none">• Dwelling, multi-family, or three (3) or more units, apartment building, or townhouse	<ul style="list-style-type: none">• Clubs• Day care, group• Governmental facilities• Museums• Places of worship• Public parks or playgrounds• Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building	<ul style="list-style-type: none">• Bar or Tavern pursuant to §23-66(h)(6)• Commercial entertainment; excluding sexually-oriented establishments• Craft-Distillery pursuant to §23-66(h)(19)• Hotel or motels• Microbrewery/Brewpub pursuant to §23-66(h)(19)• Mobile Service Support Structures and Facilities pursuant to §23-

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Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		66(h)(22) <ul style="list-style-type: none"> • Multi-tenant building • Offices • Painting/Craft studio • Personal services • Printing • Professional services • Restaurants • Restaurants, fast foods • Retail businesses • Shopping centers • Tasting rooms pursuant to §23-66(h)(19, 20, or 21) • Urban farms pursuant to §23-66(h)(17) • Veterinarian clinics, with all activity within enclosed buildings and with no animals boarded overnight • Winery pursuant to §23-66(h)(21)

(Ord 104-23, §1, 10-10-23; Ord 160-24, §1, 11-6-24)

(c) **Accessory uses.** Accessory uses in the C-1 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-1 district; however, new or expanded driveways, parking lots, and loading areas shall not be located between the principal building and the front lot line.
- (2) Residential dwellings at least ten (10) feet above the street grade of the building.
- (3) Home occupation pursuant to §23-45.
- (4) Outdoor storage and display pursuant to §23-46.
- (5) Fences and walls pursuant to §23-44.
- (6) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 125-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the C-1 district.

(e) **Special uses.** Special uses in the C-1 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Educational institutions; elementary school, junior high school or high school • Essential services • Recreation facilities, non-profit 	<ul style="list-style-type: none"> • Electronic towers pursuant to §23-66(h)(1) • Manufacturing, custom pursuant to §23-66(h)(16) • Outdoor commercial entertainment pursuant to §23-66(h)(11) • Parking garages • Recycling collection points pursuant to §23-66(h)(14) • Research laboratories or testing facilities

(Ord 105-23, §1, 10-10-23; Ord 161-24, §1, 11-6-24)

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(f) **Site plan.** Prior to obtaining a building permit on any land in the C-1 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards; however, the number of off-street parking and loading spaces required are reduced by fifty percent (50%) for uses in the C-1 district. Landscaping requirements are set forth in §23-601, Landscaping and screening requirements.

(h) **Development standards.** The space limits applicable in the C-1 district are as follows:

(1) **Minimum lot area.** Six thousand (6,000) square feet.

(2) **Maximum lot coverage.** Ninety percent (90%).

(3) **Minimum lot width.** Forty (40) feet.

(4) **Minimum front yard.** None.

(5) **Minimum rear yard:**

a. Twenty (20) feet.

(6) **Minimum side yard:**

a. None.

b. Ten (10) feet if abutting a residentially zoned district.

(7) **Maximum building height.** Sixty (60) feet.

(i) **District location.** The C-1 district shall be utilized in areas identified with a future Mixed Use designation on the Comprehensive Plan Future Land Use Map.

(Ord 121-05, §1, 10-25-05; Ord 99-08, §1, 5-27-08; Ord 155-08, §1, 10-7-08; Ord 205-11, §1, 9-27-11; Ord 57-12, §1, 6-6-12; Ord 40-20, §1, 3-24-20; Ord 104-23, §1, 10-10-23; Ord 105-23, §1, 10-10-23; Ord 125-23, §1, 10-10-23)

Sec. 23-113. C-2 general commercial district.

(a) **Purpose.** This district is intended to provide for businesses which serve city and regional markets; provide goods and services to other businesses, as well as consumers, provide services to automobiles and serve the traveling public.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the C-2 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none">• Assisted living or retirement homes• Nursing or convalescent homes	<ul style="list-style-type: none">• Clubs• Day care, group• Educational institutions; business, technical or vocational school• Educational institutions; college or university• Governmental facilities• Hospitals• Marina or boat landings• Museums• Places of worship• Public parks or playground• Recreation facilities; non-profit• Registered historic places open to	<ul style="list-style-type: none">• Automobile maintenance shops• Bar or tavern pursuant to §23-66(h)(6)• Commercial entertainment; excluding sexually-oriented establishments• Craft-Distillery pursuant to §23-66(h)(19)• Drive through facilities pursuant to §23-49• Greenhouses or greenhouse nurseries• Hotel or motels• Manufacturing, custom pursuant to §23-66(h)(16)

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	the public and having retail space occupying not more than 10% of the gross floor area of the building	<ul style="list-style-type: none"> • Microbrewery/Brewpub pursuant to §23-66(h)(19) • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) • Multi-tenant building • Offices • Painting/Craft studio pursuant to §23-66(h)(6) • Parking lots • Personal services • Printing • Professional services • Restaurants pursuant to §23-66(h)(6) • Restaurants, fast food • Retail businesses • Shopping centers • Tasting rooms pursuant to §23-66(h)(19, 20, or 21) • Towing businesses pursuant to §23-66(h)(15) • Urban farms pursuant to 23-66(h)(17) • Veterinarian clinics • Winery pursuant to §23-66(h)(21)
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(Ord 106-23, §1, 10-10-23; Ord 162-24, §1, 11-6-24)

(c) **Accessory uses.** Accessory uses in the C-2 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the C-2 district.
- (2) Residential dwellings at least ten (10) feet above the street grade of the building.
- (3) Home occupation pursuant to §23-45.
- (4) Outdoor storage and display pursuant to §23-46.
- (5) Fences and walls pursuant to §23-44.
- (6) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 126-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the C-2 District.

(e) **Special uses.** Special uses in the C-2 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Educational institutions; elementary school, junior high school or high school • Essential services • Golf courses. However, the clubhouse, practice driving range, practice greens, or miniature golf course shall not be located closer than two hundred (200) 	<ul style="list-style-type: none"> • Any principal building that exceeds thirty-five (35) feet in height • Automobile, RV, truck, cycle, boat sales and display lots, new pursuant to §23-66(h)(5) • Automobile, RV, truck, cycle, boat sales and display lots when including used vehicles pursuant to

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Residential Uses	Public and Semi Public Uses	Non-Residential Uses
	feet from any residential structure	§23-66(h)(5) • Body repair and/or paint shops pursuant to §23-66(h)(4) • Bus terminals • Car washes • Circus or carnivals. However, carnival rides or midways shall not be located within three hundred (300) feet of any residential district and shall be pursuant to §23-66(h)(7) • Electronic towers pursuant to §23-66(h)(1) • Freight distribution and/or moving centers • Gasoline sales pursuant to §23-66(h)(8) • Helicopter landing pads pursuant to §23-66(h)(9) • Indoor kennels • Landscape business • Manufacturing, light • Mobile home sales lots • Outdoor commercial entertainment pursuant to §23-66(h)(11) • Parking garages • Recycling collection points pursuant to §23-66(h)(14) • Recycling and waste recovery centers pursuant to §23-66(h)(13) • Research laboratories or testing facilities • Sexually-oriented establishments pursuant to Article XII • Shelter facility • Wholesale facilities

(Ord 107-23, §1, 10-10-23; Ord 163-24, §1, 11-6-24)

(f) **Site plan.** Prior to obtaining a building permit on any land in the C-2 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking, loading, and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) **Development standards.** The space limits applicable in the C-2 district are as follows:

- (1) **Minimum lot area.** Fourteen thousand (14,000) square feet.
- (2) **Maximum lot coverage.** Seventy-five percent (75%).
- (3) **Minimum lot width.** Sixty (60) feet.
- (4) **Minimum front yard.** Ten (10) feet.
- (5) **Minimum rear yard.** Twenty (20) feet.
- (6) **Minimum side yard.**

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- a. None.
- b. Ten (10) feet if abutting a residentially zoned district.

(7) **Maximum building height.** Thirty-five (35) feet (See §23-113 (e)).

(Ord 121-05, §1, 10-25-05; Ord 100-08, §1, 5-27-08; Ord 139-08, §1, 10-7-08; Ord 156-08, §1, 10-7-08; Ord 206-11, §1, 9-27-11; Ord 207-11, §1, 9-27-11; Ord 58-12, §1, 6-6-12; Ord 72-13, §1, 8-13-13; Ord 41-20, §1, 3-24-20; Ord 42-20, §1, 3-24-20; Ord 106-23, §1, 10-10-23; Ord 107-23, §1, 10-10-23; Ord 126-23, §1, 10-10-23; Ord 162-24, §1, 11-6-24; Ord 163-24, §1, 11-6-24)

Sec. 23-114. CBD central business district.

(a) **Purpose.** This district is intended to provide a centrally located and readily accessible area that offers a wide variety of retail, service, financial, entertainment, governmental, and residential uses. A broad range of uses is permitted to reflect downtown's role as a commercial, cultural and government center. Development is intended to be intense with maximum lot coverage, increased building scale and height density and buildings placed close together. Development is intended to be pedestrian-oriented with a strong emphasis on a safe and attractive streetscape.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the CBD:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> Assisted living or retirement homes Nursing or convalescent homes Dwelling, multi-family, of three (3) or more units, apartment building, or townhouse; however, residential uses are prohibited on the ground floor for any lot with frontage on College Avenue or within 120 feet of College Avenue frontage 	<ul style="list-style-type: none"> Clubs Day care, group Educational institutions; college or university Governmental facilities Museums Places of worship Public park or playgrounds Registered historic places open to the public and having retail space occupying not more than 10% of the gross floor area of the building 	<ul style="list-style-type: none"> Automobile maintenance shops Bar or Tavern pursuant to §23-66(h)(6) Commercial entertainment; excluding sexually-oriented establishments Craft-Distillery pursuant to §23-66(h)(19) Hotel or motels Microbrewery/Brewpub pursuant to §23-66(h)(19) Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) Multi-tenant building Offices Painting/Craft studio pursuant to §23-66(h)(6) Personal services Printing Professional services Restaurants pursuant to §23-66(h)(6) Restaurant, fast foods Retail businesses Shopping centers Tasting rooms pursuant to §23-66(h)(19, 20, or 21) Urban farms pursuant to §23-66(h)(17) Veterinarian clinics Winery pursuant to §23-66(h)(21)

(Ord 108-23, §1, 10-10-23; Ord 164-24, §1, 11-6-24)

(c) **Accessory uses.** Accessory uses in the CBD district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the CBD district.

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(2) Residential dwellings at least ten (10) feet above the street grade of the building.

(3) Home occupations pursuant to §23-45.

(4) Fences and walls pursuant to §23-44.

(5) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 127-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the CBD District.

(e) **Special uses.** Special uses in the CBD district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Educational institution; elementary school, junior high school or high school • Essential services • Hospital • Marina and/or boat landing 	<ul style="list-style-type: none"> • Automobile, RV, truck, cycle, boat sales and display lot, new pursuant to §23-66(h)(5) • Automobile, RV, truck, cycle, boat sales and display lot when including used vehicles pursuant to §23-66(h)(5) • Body repair and/or paint shop pursuant to §23-66(h)(4) • Bus terminal • Electronic towers pursuant to §23-66(h)(1) • Gasoline sales pursuant to §23-66(h)(8) • Indoor kennel • Manufacturing, custom pursuant to §23-66(h)(16). • Outdoor commercial entertainment pursuant to §23-66(h)(11) • Parking garage • Parking lot; however, surface lots are prohibited on lots fronting on College Avenue • Recycling collection point pursuant to §23-66(h)(14) • Research laboratories or testing facilities • Shelter facility • Wholesale facility

(Ord 109-23, §1, 10-10-23; Ord 165-24, §1, 11-6-24)

(f) **Site plan.** Prior to obtaining a building permit on any land in the CBD, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking and loading requirements.** Provision for off-street parking and loading spaces are not required for uses in the CBD.

(h) **Landscape standards.** Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(i) **Development standards.** The space limits applicable in the CBD are as follows:

(1) **Minimum lot area.** Two thousand four hundred (2,400) square feet.

(2) **Maximum lot coverage.** One hundred percent (100%).

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(3) **Minimum lot width.** Twenty (20) feet.

(4) **Minimum front yard.** None.

(5) **Minimum rear yard.**

a. None.

b. Ten (10) feet when abutting a residentially-zoned district.

(6) **Minimum side yard.**

a. None.

b. Ten (10) feet when abutting a residentially-zoned district.

(7) **Maximum building height.** Two hundred (200) feet.

(Ord 121-05, §1, 10-25-05; Ord 101-08, §1, 5-27-08; Ord 140-08, §1, 10-7-08; Ord 157-08, §1, 10-7-08; Ord 59-12, §1, 6-6-12; Ord 36-18, §1, 4-10-18; Ord 43-20, §1, 3-24-20; Ord 108-23, §1, 10-10-23; Ord 109-23, §1, 10-10-23; Ord 127-23, §1, 10-10-23; Ord 164-24, §1, 11-6-24; Ord 165-24, §1, 11-6-24)

Sec. 23-115. P parking district.

(a) **Purpose.** The parking district is intended to provide for the off-street parking of motor vehicles in close proximity to uses which create a need for substantial amounts of vehicle parking, on properly screened and landscaped lots.

(b) **Permitted uses.** Principal uses permitted as of right in the parking district include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) Parking garage Parking lot

(Ord 110-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses, buildings and structures permitted in the parking district include:

(1) Earthen berm.

(2) Fences and walls pursuant to §23-44.

(3) Private drives.

(4) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 128-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the P District.

(e) **Special uses.** Special uses permitted in the parking district include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Essential services 	<ul style="list-style-type: none"> None

(f) **Lot area and width.** Individual lots in the P district shall contain sufficient area for parking spaces, aisles and required screening. There is no minimum lot area and width.

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(g) ***Site plan.*** Prior to obtaining a building permit for a parking lot in the P district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(h) ***Parking and landscape standards.*** Off-street parking requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(i) ***Development standards.***

(1) ***Maximum lot coverage.*** Ninety percent (90%).

(Ord 121-05, §1, 10-25-05; Ord 102-08, §1, 5-27-08; Ord 158-08, §1, 10-7-08; Ord 110-23, §1, 10-10-23; Ord 128-23, §1, 10-10-23)

Secs. 23-116 – 23-130. Reserved.

ARTICLE VII. INDUSTRIAL DISTRICTS

Sec. 23-131. M-1 industrial park district.

(a) **Purpose.** The M-1 district is intended for clean, low environmental impact industrial uses that are compatible with neighboring residential, office and commercial districts through limiting outdoor storage and providing adequate landscaping and screening for buildings, structures and off-street parking areas.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the M-1 district, subject to any contracts, agreements, covenants, restrictions and leases the City maintains on City-owned industrial properties.

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • Governmental facilities • Registered historic places open to the public and having retail space occupying not more than ten percent (10%) of the gross floor area of the building 	<ul style="list-style-type: none"> • Agriculture • Brewery pursuant to §23-66(h)(20) • Commercial entertainment • Community garden • Craft-Distillery pursuant to §23-66(h)(19) • Distillery pursuant to §23-66(h)(20) • Freight distribution or moving centers • Manufacturing, light • Microbrewery/Brewpub pursuant to §23-66(h)(19) • Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) • Multi-tenant buildings • Offices • Printing • Research laboratory or testing facilities • Urban farms pursuant to §23-66(h)(17) • Warehouses • Wholesale facilities • Winery pursuant to §23-66(h)(21)

(Ord 111-23, §1, 10-10-23)

(c) **Accessory uses.** Accessory uses in the M-1 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the M-1 district.
- (2) Day care, group; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.
- (3) Drive through facility pursuant to §23-49.
- (4) Personal service occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.
- (5) Outdoor storage pursuant to §23-46.
- (6) Showrooms and incidental retail sales provided as follows, unless otherwise stated in this chapter:
 - a. Such showrooms and on-premises sales are limited in floor area to no more than twenty-five percent (25%) of the total gross floor area occupied by the permitted or special use and,
 - b. All goods being displayed or offered for sale are the same as those being manufactured and/or stored/distributed on the premises; and
 - c. The industrial character of the property is maintained.

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(7) Fences and walls pursuant to §23-44.

(8) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 129-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the M-1 District.

(e) **Special uses.** Special uses in the M-1 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none">• None	<ul style="list-style-type: none">• Essential services	<ul style="list-style-type: none">• Electronic towers pursuant to §23-66(h)(1)• Helicopter landing pads pursuant to §23-66(h)(9)• Manufacturing, heavy• Outdoor commercial entertainment pursuant to §23-66(h)(11)• Parking garages• Recycling centers• Recycling collection points pursuant to §23-66(h)(14)• Recycling and waste recovery centers pursuant to §23-66(h)(13)• Sexually-oriented establishments pursuant to Article XII

(Ord 112-23, §1, 10-10-23)

(f) **Site plan.** Prior to obtaining a building permit on any land in the M-1 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking, loading and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) **Development standards.** The space limits applicable in the M-1 district are as follows:

(1) **Minimum lot area.** One (1) acre.

(2) **Maximum lot coverage.** Ninety percent (90%).

(3) **Minimum lot width.** One hundred fifty (150) feet.

(4) **Minimum front yard.** Forty (40) feet.

(5) **Minimum rear yard:**

a. Twenty-five (25) feet.

b. Fifty (50) feet if abutting a residentially-zoned district.

(6) **Minimum side yard:**

a. Twenty-five (25) feet.

b. Fifty (50) feet if abutting a residentially-zoned district.

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(7) **Maximum building height.** Sixty (60) feet.

(Ord 121-05, §1, 10-25-05; Ord 103-08, §1, 5-27-08; Ord 159-08, §1, 10-7-08; Ord 31-11, §1, 1-25-11; Ord 158-11, §1, 7-26-11; Ord 209-11, §1, 9-27-11; Ord 60-12, §1, 6-6-12; Ord 61-12, §1, 6-6-12; Ord 45-20, §1, 3-24-20; Ord 46-20, §1, 3-24-20; Ord 111-23, §1, 10-10-23; Ord 112-23, §1, 10-10-23; Ord 129-23, §1, 10-10-23)

Sec. 23-132. M-2 general industrial district

(a) **Purpose.** The M-2 district is intended to preserve and secure areas already established with industrial type or related uses or for new uses that meet the purposes of this district. The M-2 district is also intended to apply standards for existing uses that will minimize their effect on any adjacent residential or commercial land uses.

(b) **Principal permitted uses.** The following principal uses are permitted as of right in the M-2 district:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Governmental facilities Registered historic places open to the public and having retail space occupying not more than ten percent (10%) of the gross floor area of the building 	<ul style="list-style-type: none"> Automobile maintenance shops Body repair and/or paint shops pursuant to §23-66(h)(4) Brewery pursuant to §23-66(h)(20) Bus terminals Commercial entertainment Commercial truck body repair or paint shops Commercial truck maintenance shops Community garden Craft-Distillery pursuant to §23-66(h)(19) Distillery pursuant to §23-66(h)(20) Freight distribution or moving centers Landscape businesses Manufacturing, light Microbrewery/Brewpub pursuant to §23-66(h)(19) Mobile Service Support Structures and Facilities pursuant to §23-66(h)(22) Multi-tenant buildings Offices Personal storage facility (self storage/mini-warehouse), including outdoor storage areas for recreational vehicles pursuant to §23-66(h)(18) Printing Research laboratories or testing facilities Towing businesses pursuant to §23-66(h)(15) Truck or heavy equipment sales or rental Urban farms pursuant to §23-66(h)(17) Warehouses Wholesale facilities Winery pursuant to §23-66(h)(21)

(Ord 113-23, §1, 10-10-23)

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(c) **Accessory uses.** Accessory uses in the M-2 district may include:

- (1) The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the M-2 district.
- (2) Day care, group; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.
- (3) Drive through facility pursuant to §23-49.
- (4) Outdoor display pursuant to §23-46.
- (5) Outdoor storage pursuant to §23-46.
- (6) Personal service; occupying not more than twenty-five percent (25%) of the gross floor area of the building or structure.
- (7) Showrooms and incidental retail sales provided as follows, unless otherwise stated in this chapter:
 - a. Such showrooms and on-premises sales are limited in floor area to no more than twenty-five percent (25%) of the total gross floor area occupied by the permitted or special use and,
 - b. All goods being displayed or offered for sale are the same as those being manufactured and/or stored/distributed on the premises; and
 - c. The industrial character of the property is maintained.
- (8) Fences and walls pursuant to §23-44.
- (9) Refuse containers and dumpster enclosures pursuant to §23-47.

(Ord 130-23, §1, 10-10-23)

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the M-2 District.

(e) **Special uses.** Special uses in the M-2 district may include:

Residential Uses	Public and Semi Public Uses	Non-Residential Uses
<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> Essential services Marina or boat landing 	<ul style="list-style-type: none"> Asphalt plant Automobile, RV, truck, cycle, boat sales and display lot, new pursuant to §23-66(h)(5) Automobile, RV, truck, cycle, boat sales and display lot when including used vehicles only pursuant to §23-66(h)(5) Bulk flammable or combustible liquid storage or distribution facility Concrete mixing Electronic towers pursuant to §23-66(h)(1) Gasoline sales, pursuant to §23-66(h)(8) Manufacturing, heavy Indoor or outdoor kennel pursuant to §23-66(h)(12) Mobile home sales and display lot Parking garage Parking lot Recycling collection point pursuant to §23-66(h)(14) Recycling and waste recovery center

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Residential Uses	Public and Semi Public Uses	Non-Residential Uses
		<p>pursuant to §23-66(h)(13)</p> <ul style="list-style-type: none"> • Salvage yard or junk facility • Sexually-oriented establishments pursuant to Article XII • Towed vehicle storage

(Ord 114-23, §1, 10-10-23)

(f) **Site plan.** Prior to obtaining a building permit on any land in the M-2 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking, loading, and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) **Development standards.** The space limits applicable in the M-2 district are as follows:

- (1) **Minimum lot area.** Eight thousand (8,000) square feet.
- (2) **Maximum lot coverage.** Ninety percent (90%).
- (3) **Minimum lot width.** Fifty (50) feet.
- (4) **Minimum front yard.** None.
- (5) **Minimum rear yard.** None; Fifty (50) feet if abutting a residentially zoned district.
- (6) **Minimum side yard.** None; Fifty (50) feet if abutting a residentially zoned district.

(7) **Maximum building height.** Eighty (80) feet.

(Ord 121-05, §1, 10-25-05; Ord 160-08, §1, 10-7-08; Ord 159-11, §1, 7-26-11; Ord 210-11, §1, 9-27-11; Ord 62-12, §1, 6-6-12; Ord 63-12, §1, 6-6-12; Ord 73-13, §1, 8-13-13; Ord 47-20, §1, 3-24-20; Ord 113-23, §1, 10-10-23; Ord 114-23, §1, 10-10-23; Ord 130-23, §1, 10-10-23)

Secs. 23-133 – 23-149. Reserved.

ARTICLE VIII. OVERLAY DISTRICTS

Sec. 23-150. Overlay districts purpose.

The Appleton overlay districts are intended to provide supplemental regulations or standards pertaining to specific areas of the City, wherever these are located, in addition to, but not necessarily more restrictive than the “base” or underlying zoning district regulations applicable within a designated area. Whenever there is a conflict between the regulations of a base zoning district and those of an overlay district, the overlay district regulations shall supercede the base district regulations.

Sec. 23-151. PD planned development overlay district.

(a) **Purpose.** The purpose of this district is to encourage innovative design and a mix of uses in areas of Appleton where such development could positively contribute to the physical appearance and function of land and development.

(b) **Designation of planned development overlay district.** The PD overlay district shall be designated by the Common Council pursuant to the provisions of §23-65, Zoning amendments, and shall be shown as an overlay to the underlying districts by the designation of PD on the City of Appleton Official Zoning Map.

In determining the proper location for such an overlay within the City, the City shall consider that these provisions are intended to accommodate developments that involve one (1) or more uses that may be located in one (1) or more zoning districts and provide the following:

- (1) That the application of this overlay district would provide a choice in the type of environment available to the public by allowing development that would not be possible under the strict application of other sections of this chapter.
- (2) That the application of this PD overlay district would encourage development and/or permanent reservation of open space, recreational areas and facilities.
- (3) That the application of this PD overlay district would accommodate a land use plan that permits preservation of green space, natural vegetation, topographic and geologic features and historic resources.
- (4) That the application of this PD overlay district would allow a creative approach to the use of land and related physical facilities which results in better urban design, higher quality construction and the provision of aesthetic amenities.
- (5) That the application of this PD overlay district would allow the efficient use of land, so as to promote economies in the provision of utilities, streets, schools, public grounds and buildings and other facilities.
- (6) That the application of this PD overlay district would allow innovations in development so that the needs and demands of the population may be met by a greater variety in type, design and layout of buildings, and by conservation and more efficient use of open space ancillary to said buildings, all in a manner so as to be consistent with the character of the zoning district over which the PD overlay district is to be located.
- (7) That the application of this PD overlay district would allow a land use which promotes the public health, safety, comfort, morals and welfare.

(c) **Minimum size of district.** No district shall be established unless it contains the minimum area specified in this section and has at least two hundred (200) feet of frontage or City approved private road access.

- (1) The minimum gross area required for a PD overlay district is as follows:
 - a. Two (2) acres where the overlay is placed upon base, single-family residential districts.
 - b. Two (2) acres where the overlay is placed upon base, multi-family residential districts.

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- c. One (1) acre where the overlay is placed upon base, nonresidential districts.
- (2) Applications for a PD overlay district on sites containing less than the required acreage listed above, but not less than the underlying zoning district requirements, may be approved upon proof by the owner that the development is in the public interest and that one (1) or more of the following conditions exist:
 - a. The property contains steep topography or other unusual physical features which necessitates substantial deviation from the regulations otherwise applicable, in order to ensure a safe, efficient and attractive development.
 - b. The property is adjacent to an existing PD overlay district and will contribute to the maintenance of amenities and values of the neighboring district.
 - c. The proposal involves the redevelopment of an existing area or makes use of an infill site that could not be reasonably developed under conventional zoning requirements.
 - d. The property lends itself to creative design that will enhance quality of life in the proposed development.

(d) **Designation of permanent common open space.** No Development Plan for a PD overlay district shall be approved, unless the plan provides for permanent, landscaped, open space equivalent to the following by type of PD overlay district:

<i>Percent of gross acreage</i>		
a.	Planned residential development	35%
b.	Planned commercial development	10%
c.	Planned office development	25%
d.	Planned mixed development	30%

- (1) Open space may either be passive or active in nature and shall fully complement the proposed development. Such open space may take the form of required yards, parks, playgrounds, landscaped green space, nature walks and natural areas.
- (2) Land donated for any public purpose, which is accepted by the City, may be credited towards the open space requirement at the discretion of the Common Council.
- (3) Where a planned development is to be developed in phases, a portion of the required open space shall be provided in each phase. Maintenance of the open space shall be provided for in the planned development's restrictive covenants and/or the Implementation Plan Document (IPD) recorded as part of the project.
- (4) Open space shall be either adjacent to, or readily accessible by, all properties within the PD overlay district. Furthermore, open space shall be situated in such a way that it may be linked up with other open spaces adjacent to the proposed PD overlay district.

(e) **Area, height and yard requirements.** Lot area, width, building height, yard, density and similar requirements shall be provided in accordance with the underlying zoning district unless based upon performance standards specific to the proposed uses or structures as they relate to the total concept of the PD overlay district as identified in §23-151(m), Procedure for approval of a Development Plan within the district, of this section.

(f) **Density, height, yard and other regulation exceptions.** In the case of any PD overlay district, the Plan Commission may recommend and the Common Council may authorize, exceptions to the applicable bulk, height, yard and other regulations of this chapter within the boundaries of such PD overlay district, provided that the Plan Commission shall find that such exception shall be for the purpose of promoting an integrated Development Plan as beneficial to the tenants or occupants of such development, as well as the neighboring properties, than would be obtained under the bulk regulations of this chapter for buildings developed on separate zoning lots.

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(g) ***Principal permitted uses.***

- (1) Uses listed as permitted in the underlying zoning district(s).
- (2) Uses as approved or as recommended by the Plan Commission and Common Council as identified in §23-151(h), Use regulation exceptions.
- (3) Uses listed as special uses in the underlying zoning district(s) may be listed as permitted uses in the PD overlay district and shall be reviewed and approved, approved with conditions or denied as a part of the PD overlay district process.

(h) ***Use regulation exceptions.*** The Plan Commission may recommend and the Common Council may authorize that there will be allowed in part of the area of a proposed PD overlay district, specified uses not permitted by the use regulations of the underlying zoning districts in which the development is located, provided that the Plan Commission shall find:

- (1) That the uses permitted by such exception are necessary or desirable and are appropriate with respect to the primary purpose and character of the PD overlay district.
- (2) That the uses permitted by such exception are not of such nature or so located as to exercise a detrimental influence on the neighborhoods surrounding the PD overlay district, or upon the internal character of any part of, or all of the PD overlay district, itself.
- (3) That the use exceptions so allowed are listed in the Implementation Plan Document (IPD), of which a recorded copy of the Implementation Plan Document (IPD), shall be filed in the office of the Community Development Director.
- (4) That any excepted use which is listed as a special use in any district, unless such use is permitted as of right in the underlying zoning district, shall require a two-thirds (2/3) vote of the Common Council.

(i) ***Other uses.***

- (1) ***Accessory uses.*** Uses listed as accessory uses in the underlying zoning district(s) are permitted as of right in the PD overlay district.
- (2) ***Temporary uses and structures.*** Uses listed as temporary uses and structures in the underlying district(s) may be permitted in the PD overlay district.

(j) ***Signs.*** Sign regulations applicable in the PD overlay district are set forth in Article XIV, Signs.

(k) ***Outdoor lighting, parking and landscape standards.*** All standards of the following apply: outdoor lighting requirements as set forth in §23-53, Outdoor lighting. Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(l) ***Period of validity and expiration of plans.*** A PD overlay district designation remains on PD parcels even if there is no approved Development Plan and/or Implementation Plan Document (IPD), or if the Development Plan and Implementation Plan Document (IPD) has expired or the Development Plan and Implementation Plan Document (IPD), has been made invalid. Any future development requires a submittal of a Development Plan and Implementation Plan Document (IPD) and its approval or a request to rezone the property.

- (1) Once a Development Plan and/or Implementation Plan Document (IPD) has expired for any portion of the planned development overlay district, no development shall occur within the expired portions of the planned district until:
 - a. A new Development Plan and Implementation Plan Document (IPD) is resubmitted and is recommended for approval by the Plan Commission and approved by Common Council; and

- (2) A one (1) year extension of an approved Development Plan and Implementation Plan Document (IPD) may be granted by Common Council for good cause shown by the applicant.

(m) ***Procedure for approval of a Development Plan within the district.*** No development shall be permitted within this district unless it is submitted, reviewed and approved subject to the following procedures:

All required improvements, construction standards, design standards and all other engineering standards contained within the Municipal Code shall be complied with, except where specifically varied through the provisions of this section of the chapter.

Applications shall be made on forms provided by the City and shall be accompanied by the required plans and documents. The application and all requirements shall be reviewed for completeness by the Community Development Director. The steps in the procedure are as follows:

(1) ***Step 1. Pre-application conference.***

- a. The purpose of the pre-application conference is to provide two-way communication between the applicant, the Community Development Director and City staff regarding the legal, planning, engineering and storm water management aspects of the potential development. Accordingly, the applicant shall submit conceptual plans and other pertinent information to the Community Development Director for review and discussion by other city departments prior to submittal of a PD overlay district application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD). The conceptual plan shall include the entire area of the intended PD, even if the PD overlay district is to be developed in phases.
- b. A pre-application conference review shall consider: success in achieving the purposes of the PD overlay district ordinances; adequacy of public and private services and facilities; ability to conform with all applicable codes and ordinances; utilization of commonly accepted principles of good site planning; and consistency with the comprehensive plan.
- c. Submittal requirements for the PD overlay district application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be reviewed as part of the pre-application conference. A submittal item may be waived as part of this review if determined as not needed, already known or needed at a future review process.
- d. The aforementioned requirements may be waived at the discretion of the Community Development Director.

- (2) ***Step 2. Application, Development Plan and Implementation Plan Document (IPD).*** The Development Plan, complete application and fee, and Implementation Plan Document (IPD) for the PD overlay district shall be submitted by the applicant to the Director who, after determining the application to be complete, will file the Development Plan, complete application and fee and Implementation Plan Document (IPD) for the PD overlay district. The application and fee shall be filed with the City Clerk and the application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be forwarded to the Plan Commission for their consideration, public hearing, and recommendation.

The required procedure for consideration and approval of the PD overlay district shall be:

- a. **Submission of materials.** The applicant shall prepare and submit the following plans and documents:
 1. All information listed in §23-151(n), Specific contents of Development Plans.
 2. Written application and application fee for approval of a PD district to be made on forms and in the manner prescribed by the City.

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3. A completed copy of the Implementation Plan Document (IPD) as prescribed by the City shall be submitted to the Director by electronic mail. The Implementation Plan Document (IPD) functions to inform all whom deal with the PD overlay district of the restrictions placed upon the land and acts as a customized zoning district control device.
 4. A statement of conformity with City's other relevant ordinances along with a list of any requested variations from these ordinances.
 - b. **Development Plan and Implementation Plan Document (IPD) review.** The Director shall coordinate a review of the Development Plan and Implementation Plan Document (IPD) to include review by all relevant departments and submit written findings and recommendations to the Plan Commission for a public hearing.
 - c. The PD overlay district zoning map amendment shall comply with 23-65(d)(3) Public Hearing, (4) Authority of Plan Commission, (5) Authority of Common Council, 23-65(e) Standards for Zoning Amendments, and 23-65(f) Time Period.
 - d. Period of Validity.
 - e. Recording of Development Plan and Implementation Plan Document (IPD).
- (Ord 153-24, §1, 11-6-24)

(n) **Specific content of Development Plans.** PD overlay district Development Plans and supporting data shall include all documentation listed in this section of the zoning ordinance. In developing plans and specifications for all required improvements, the applicant must also conform to the standards set forth in applicable sections of the Municipal Code.

- (1) **Development plan set.** The applicant shall provide a complete set of development plans, a digital file of the Development Plan, a PD overlay district rezoning or PD overlay district amendment application and the appropriate fee as established by the Common Council.
 - a. **A topographic survey and location map.**
 - b. **Detailed plan.** A drawing of the Development Plan shall be prepared at a scale not less than one (1) inch equals one hundred (100) feet, or as considered appropriate by the Community Development Director, and shall show such designations as proposed streets, lots, all buildings, showing their setback dimensions to lot lines and their use, common open space, recreation facilities, parking areas, showing their setback dimensions to lot lines, service areas and other facilities to indicate the character of the proposed development. Provide note(s) identifying the lot coverage percentage of impervious surface coverage and the percentage of permanent common open space within the PD.

The submission may be composed of one (1) or more sheets and drawings and shall include:

1. Boundary lines. Bearings, distances and acreage.
2. Easements. Location, width and purpose.
3. Existing land use. On PD property and up to one hundred fifty (150) feet on adjacent lots.
4. Other conditions on adjoining land, such as actual direction and gradient of ground slope, including any embankments or retaining walls; character and location of major buildings, railroads, power lines, towers and other nearby non-residential land uses or adverse influences; for owners of adjoining platted land refer to subdivision plat by name, recording date and number and show approximate percent built up, typical lot size and dwelling type.
5. Zoning on and adjacent to the tract.

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6. Streets on and adjacent to the tract, such as street name, right-of-way width, existing or proposed centerline elevations pavement type, walks, curbs, gutters, culverts, etc.
7. General location, purpose and height of each residential and non-residential building.
8. Map data. Name of development, north arrow, scale and date of preparation.
9. An accurate legal description of the entire area within the PD.

The following subsections 10 through 22 may be waived by the Community Development Director:

10. Proposed public improvements. Such as highways and other major improvements planned by public authorities for future construction on or near the tract.
11. Utilities on and adjacent to the tract. Such as location, size and invert elevation of sanitary and storm sewers; location and size of water mains; location of gas lines, fire hydrants, electric and telephone lines and street lights; direction and distance to, and size of nearest water mains and sewers adjacent to the tract showing invert elevation of sewers.
12. Ground elevation on the tract and on the first fifty (50) feet on all adjacent tracts. Showing one (1) foot contours for land which slopes less than one-half percent ($\frac{1}{2}\%$) along with all breaks in grades, at all drainage channels or swales and at selected points not more than one hundred (100) feet apart in all directions; for land that slopes more than one-half percent ($\frac{1}{2}\%$) showing two (2) foot contours. Any land within the one hundred (100) year floodplain within the project area shall be identified on these plans.
13. Subsurface conditions on the tract. Tests made to ascertain subsurface soil, rock and groundwater conditions, depth to groundwater, unless test pits are dry at a depth of five (5) feet.
14. Other conditions on the tract. Water courses, marshes, rock outcrops, wooded areas, isolated trees one (1) foot or more in diameter, existing structures and other significant features.
15. Title and certificates. Present tract designation according to official records in Office of the Register of Deeds; title under which the proposed development is to be recorded, with names and addresses of owners and notation stating acreage. Owners shall include beneficial owners of any land trust.
16. Names. The names and addresses to who notices of hearings shall be sent, including the subdivider or developer, the designer of the subdivision or development and the owners of the land immediately adjoining the land to be platted.
17. Open space. All parcels of land intended to be dedicated for public use or reserved for the use of all property owners, with the purpose indicated.
18. Miscellaneous. Such additional documents as may be required by the Community Development Director. The Community Development Director shall inform the applicant of such requirements after the pre-application conference.
19. A drainage plan signed by a Wisconsin Registered Professional Engineer that conforms to City standards for site drainage.
20. Tabulation of each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre.
21. An accurate legal description of each separate unsubdivided use area, including open area.
22. A storm water management plan signed by a Wisconsin Registered Professional Engineer that conforms to City Storm Water Management Ordinance.

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- c. **Exceptions.** Identification and explanation of those aspects of the proposed PD overlay district that vary from the zoning ordinance requirements applicable to the underlying zoning district and from other applicable regulations of the City.
- d. **Character.** Explanation of the character of the PD overlay district and the reasons why it has been planned to take advantage of the flexibility of these regulations. This item shall include a specific explanation of how the proposed PD overlay district meets the objectives of this section.
- e. **Ownership.** Statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.
- f. **Landscape and lighting plan.** A general landscape concept plan for the site as well as a lighting concept plan for the site and the effects of such lighting on adjacent properties.

The following subsections g. through p. may be required by the Community Development Director:

- g. **Schedule.** Development schedule indicating:
 - 1. Stages in which the project will be built, with emphasis on area, density, use and public facilities, such as open space to be developed with each stage. Each stage shall be described and mapped as a unit of the project. Overall design of each unit shall be shown on the plan and through supporting graphic material.
 - 2. Dates for beginning and completion of each stage.
- h. **Covenants.** Proposed agreements, provisions or covenants which will govern the use, maintenance and continue protection of the PD and any of its common open space. Proposed condominium declaration and bylaws of condominium form of ownership or homeowner's association if it is to be used in the PD.
- i. **Nonresidential intensity.** Information on the type and amount of nonresidential uses including building locations, sizes, building height, the amount and location of common open space, the hours of operation, number of employees and specific uses.
- j. **Architectural plans.** Preliminary architectural plans for all primary buildings shall be submitted in sufficient detail to permit an understanding of the style of the development, the design elements of the building and the number, size and type of dwelling units.
- k. **Facilities plan.** Development plans and feasibility reports for:
 - 1. Streets, including classification, width of right-of-way, width of pavement and construction details.
 - 2. Sidewalks.
 - 3. Sanitary sewers.
 - 4. Storm drainage.
 - 5. Water supply system.
 - 6. Street lighting.
 - 7. Public utilities.
- l. **Community-benefit analysis.** A study indicating the fiscal impact of the PD overlay district on major taxing bodies which shall include the municipal corporation, school district(s) and other taxing bodies. Information will include detailed estimates on: expected population of the development, the operating

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cost to be incurred by each taxing body, any additional major capital investments required, in part or in whole, because of the PD overlay district, revenue generated for each taxing body by the PD overlay district to offset service and fiscal demands created by the PD overlay district.

- m. **Traffic analysis.** A study of the impact caused by the PD overlay district on the street and highway systems operating in the City.
- n. **Market information.** Documentation indicating the extent of market demand for the uses proposed in the PD overlay district including analysis of demographics, sales potentials, competitive alignment, assessment of market share and market positioning of each component of the PD overlay district.
- o. **Environmental analysis.** The major impacts of the PD overlay district on the environment shall be analyzed and shall disclose all major negative impacts. Generally, these impacts would include effects on discrete ecosystems, deteriorated air quality in the immediate vicinity and along arterial and collector roads leading to the PD overlay district to a distance established by the City Engineer, any deterioration in the groundwater or surface water quality, effect on sensitive land areas such as floodplains, wetlands, forests, aquifer recharge areas, historic buildings or structures.
- p. **Open space standards.** All open space, at the election of the City, shall be:
 - 1. Conveyed to the City; or
 - 2. Conveyed to a not-for-profit corporation or entity established for the purpose of benefiting the owners and tenants of the PD overlay district or adjacent property owners or any one (1) or more of them. All lands so conveyed shall be subject to the right of the grantee(s) to enforce maintenance and improvement of the common open space; or
 - 3. Guaranteed by a restrictive covenant described the open space and its maintenance and improvement, running with the land for the benefit of residents of the PD overlay district or adjacent property owners.

(o) **Findings of fact.** In reporting its findings and recommendations on a PD overlay district, Development Plan and Implementation Plan Document (IPD) to the Common Council, the Plan Commission will submit findings of fact upon which it has based its recommended action. These findings of fact will relate to the specific proposal and shall set forth with particularity in what respects the proposal would or would not be in the public interest, including findings of fact on the following:

- (1) In what respects the proposed plan is or is not consistent with the stated purpose, requirements, and standards of the PD regulations.
- (2) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property and the reasons why such departures are or are not deemed to be in the public interest.
- (3) The extent of public benefit of the PD in terms of meeting planning objectives and enhancing the tax base and economic development. Any specific beneficial actions, plans, or programs agreed to in the PD proposal which are clearly beyond the minimum requirements of this chapter shall be specifically listed as evidence of justified exceptions.
- (4) The physical design of the proposed plan and the manner in which said design makes adequate provision for public services, provides adequate control over vehicular traffic, provides for common open space and furthers the amenities of light, air, recreation and visual enjoyment.
- (5) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.

(p) **Changes in the PD.** A PD shall be developed only according to the approved and recorded Development Plan and Implementation Plan Document (IPD) and all supporting data. The recorded Development Plan, Implementation Plan Supp. #100

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Document (IPD) and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assigns and shall limit and control the use of the premises (including the internal use of buildings and structures) and location of structures in the PD, as set forth therein.

(1) **Major changes.** Changes which alter the concept or intent of the PD, including:

- a. Increases in the density by more than ten percent (10%);
- b. Increases in the height of building(s) by more than ten percent (10%);
- c. Reductions of proposed open space by more than ten percent (10%);
- d. Modification in proportion of housing types by more than ten percent (10%);
- e. Changes in standards of infrastructure or alignment of streets, including major alterations in the placement of utilities, water, electricity, drainage or changes in the final governing agreements, provisions or covenants.

Major changes may be approved only by submission of a new Development Plan and Implementation Plan Document (IPD) and supporting data, and following the development plan approval steps, holding of a new public hearing and subsequent amendment and recordation of the Implementation Plan Document (IPD).

(2) **Minor changes.** The Community Development Director may approve minor changes in the PD which do not change the concept or intent of the development, without going through the Development Plan approval steps. Minor changes are defined as any change not defined as a major change. Any minor changes approved shall be properly filed with the Community Development Director or it shall be automatically deemed to be a major change.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96, Ord 121-05, §1, 10-25-05; Ord 84-06, §1, 7-11-06; Ord 161-08, §1, 10-7-08)

Sec. 23-152. TND traditional neighborhood development overlay district.

(a) **Purpose.** The purpose of this district is to allow for optimal development and redevelopment of land in a manner that is consistent with the design principles of traditional neighborhoods. Promoting the proximity of residential, commercial and civic uses capitalizes on the benefits received through the coordination and interaction of these uses at a pedestrian scale. The district is intended to be mapped as an overlay upon existing, underlying zoning districts, the requirements of which will also apply.

It is not intended that the City will automatically grant the use of exceptions or maximum density increases for all traditional neighborhood developments overlay districts (TND overlay district), but it is expected the City shall grant only such increases or uses which are consistent with the benefits accruing to the City as a result of the traditional neighborhood development. Therefore, the City may require as a condition of approval any reasonable condition, limitation or design factor that will promote proper development in the TND overlay district.

The following advantages are contributing factors found in a traditional neighborhood development:

- (1) Designs that balance the needs of residential uses and non-residential uses while creating compatibility among these uses;
- (2) Designs that are compact, pedestrian-oriented and relate to the human scale;
- (3) Designs that promote a variety of housing, types, styles and sizes;
- (4) Designs that reflect the City's development and planning policies reflected in the residential neighborhoods or non-residential areas in which the district is to be located;

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- (5) Designs that enhance the appearance of neighborhoods by conserving areas of natural beauty and natural green spaces;
- (6) Designs that counteract possible urban monotony and congestion on streets through promotion of all types of transportation (walking, biking, etc.); and
- (7) Designs that promote compatible architecture between adjacent buildings.

(b) **Definition.** For the purpose of this ordinance:

Traditional Neighborhood Development means a compact, mixed-use neighborhood where residential, commercial and civic buildings are within close proximity to each other.

(c) **Designation of traditional neighborhood development overlay district.** The TND overlay district shall be designated by the Common Council pursuant to the provisions of §23-65, Zoning amendments, and shall be shown as an overlay to the underlying districts by the designation of TND overlay district on the City of Appleton Official Zoning Map.

In determining the proper location for such an overlay within the City, the City shall consider these provisions are intended to accommodate developments that involve more than one use, that may be located in one (1) or more zoning district, and provide the following:

- (1) The application of this overlay district would provide a choice in the type of environment available to the public by allowing development that would not be possible under the strict application of other sections of this chapter.
- (2) The application of this overlay district would encourage development and/or permanent reservation of open space, recreational areas and facilities.
- (3) The application of this overlay district would accommodate a land use plan which permits preservation of green space, natural vegetation, topographic and geologic features and historic resources.
- (4) The application of this overlay district would allow a creative approach to the use of land and related physical facilities which results in better urban design, higher quality construction and the provision of aesthetic amenities.
- (5) The application of this overlay district would allow the efficient use of land, so as to promote economies in the provision of utilities, streets, educational institutions, public grounds and buildings and other facilities.
- (6) The application of this overlay district would allow innovations in development so the needs and demands of the population may be met by a greater variety in type, design and layout of buildings, and by conservation and more efficient use of open space ancillary to said buildings, all in a manner so as to be consistent with the character of the zoning district over which the TND overlay district is to be located.
- (7) The application of this overlay district would allow a land use which promotes the public health, safety, comfort, morals and welfare.

(d) **Size of district.** No district shall be established unless it contains the minimum area specified in this section.

- (1) The gross area required for a TND overlay district shall be no less than ten (10) acres. All acreage shall be contiguous.
- (2) Applications for a TND overlay district, on sites containing less than the required acreage listed above, but not less than the underlying zoning district requirements, may be approved upon proof by the owner the development is in the public interest and one (1) or more of the following conditions exist:

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- a. The property contains steep topography or other unusual physical features which necessitate substantial deviation from the regulations otherwise applicable, in order to ensure a safe, efficient and attractive development.
- b. The property is adjacent to an existing TND overlay district and will contribute to the maintenance of amenities and values of the neighboring property.
- c. The proposal involves the redevelopment of an existing area or makes use of an infill site that could not be reasonably developed under conventional zoning requirements.
- d. The property lends itself to creative design that will enhance quality of life in the proposed development.

(e) **Designation of permanent common space.** No plans for a TND overlay district shall be approved, unless the plan provides for permanent, landscaped, open space.

- (1) Open space standards shall be identified in the TND overlay district design standards §23-152(r)(1), Open space design standards.

(f) **Area, height and yard requirements.** Lot area, width, building height, yard and similar requirements shall be as established below. All requirements established shall be approved by the Common Council and made a part of the approved Development Plan and Implementation Plan Document (IPD).

Area, height and yard requirement table

Regulation	Single- and Two-Family	Multi-family, Civic and Commercial
Minimum Lot Size	4,000 s.f.	2,000 s.f. per unit for multifamily
		6,000 s.f. for commercial and civic uses
Maximum Lot Size	6,000 s.f.	1 acre
Minimum Lot Width	40 feet	40 feet
Front Yard Setback	10 feet maximum	10 feet maximum
	0 feet minimum	0 feet minimum
Side Yard Setback	5 feet street side	5 feet street side
	0 feet interior	0 feet interior
Rear Yard Setback	5 feet	10 feet
Maximum Height	35 Feet Principal Use	45 Feet Principal Use
	15 Feet Accessory Use	15 Feet Accessory Use
Maximum Building Coverage	70%	70%
Maximum Impervious Surface Coverage	80%	90%

(g) **Density, height, yard and other regulation exceptions.** In the case of any TND overlay district, the Plan Commission may recommend and the Common Council may authorize, exceptions to the applicable bulk, height, yard and other regulations of this chapter within the boundaries of such TND overlay district, provided the Plan Commission shall find that such exception shall be for the purpose of promoting an integrated site plan as beneficial to the tenants or occupants of such development, as well as the neighboring properties, than would be obtained under the bulk regulations of this chapter for buildings developed on separate zoning lots.

(h) **Principal permitted uses.** The following principal permitted uses are permitted as of right in the TND overlay district.

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- (1) The following uses are listed as permitted in the underlying zoning district. In the case of a lot located in more than one (1) underlying zoning district, the use limitations of the underlying zoning district shall apply:
 - a. All R-1A, R-1B and R-1C single-family district residential permitted uses;
 - b. All R-2 two- (2-) family district residential permitted uses;
 - c. All R-3 multi-family residential district permitted uses;
 - d. All C-O commercial office district permitted;
 - e. All C-1 neighborhood mixed use district permitted uses;
 - f. All C-2 general commercial district permitted uses, except the following:
 1. Hospitals;
 2. Towing business pursuant to §23-66(h)(16).
- (2) **Special uses.** Uses listed as special uses in the following underlying zoning district(s) may be listed as permitted uses in the TND overlay district and shall be reviewed and approved, approved with conditions or denied as part of the TND overlay district process:
 - a. All R-1A, R-1B, and R-1C single-family residential district special uses;
 - b. All R-2 two- (2-) family residential district special uses;
 - c. All R-3 multifamily residential district special uses;
 - d. All C-O commercial office district special uses, except the following:
 1. Electronic towers pursuant to §23-66(h)(1);
 2. Helicopter landing pads pursuant to §23-66(h)(9);
 - e. All C-1 neighborhood mixed use district special uses, except the following:
 1. Electronic towers pursuant to §23-66(h)(1);
 - f. All C-2 general commercial district special uses, except the following:
 1. Sexually-oriented establishments pursuant to Article XII;
 2. Automobile, RV, truck, cycle, boat sales and display lots, new pursuant to §23-66(h)(5);
 3. Automobile, RV, truck, cycle, boat sales and display lots when including used vehicles pursuant to §23-66(h)(5);
 4. Body repair and/or paint shops pursuant to §23-66(h)(4);
 5. Electronic towers pursuant to §23-66(h)(1);
 6. Helicopter landing pads pursuant to §23-66(h)(9);
 7. Manufacturing, light;
 8. Research laboratories or testing facilities;

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- (3) Uses as approved or as recommended by the Plan Commission and Common Council as identified in §23-152(j), Use regulation exceptions.

(Ord 115-23, §1, 10-10-23)

(i) **Other uses.**

- (1) **Accessory uses.** Uses listed as accessory uses in the underlying zoning district(s) are permitted as of right in the TND overlay district.
- (2) **Temporary uses and structures.** Uses listed as temporary uses and structures in the underlying district(s) may be permitted in the TND overlay district.

(j) **Use regulation exceptions.** The Plan Commission may recommend and the Common Council may authorize that there be allowed in part of the area of a proposed TND overlay district, specified uses not permitted by the use regulations of the underlying zoning districts in which the development is located, provided that the Plan Commission shall find:

- (1) That the uses permitted by such exception are necessary or desirable and are appropriate with respect to the primary purpose and character of the TND overlay district.
- (2) That the uses permitted by such exception are not of such nature or so located as to exercise a detrimental influence on the neighborhoods surrounding the TND district, or upon the internal character of any part of, or all of the TND overlay district, itself.
- (3) That the use exceptions so allowed are listed in the Implementation Plan Document (IPD), of which a recorded copy of the Implementation Plan Document (IPD), shall be filed in the office of the Community Development Director.
- (4) That any excepted use which is listed as a special use in any district, unless such use is permitted as of right in the underlying zoning district, shall require a two-thirds (2/3) vote of the Common Council.

(k) **Signs.** Sign regulations applicable in the TND overlay district are set forth in Article XIV, Signs.

(l) **Outdoor lighting, parking and landscape standards.** All standards of the following apply: outdoor lighting requirements as set forth in §23-53, Outdoor lighting. Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards and in §23-152(r), TND overlay district design standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(m) **Period of validity and expiration of plans.** A TND overlay district designation remains on TND overlay district parcels even if there is no approved Development Plan and/or Implementation Plan Document (IPD), the TND overlay district Development Plan and Implementation Plan Document (IPD) has expired or the TND overlay district Development Plan and Implementation Plan Document (IPD) has been made invalid. Any future development requires a submittal of a TND overlay district Development Plan and Implementation Plan Document (IPD) and its approval or a request to rezone the property.

- (1) Once a Development Plan and Implementation Plan Document (IPD) has expired for any portion of the Traditional Neighborhood Development Overlay District, no development shall occur within the expired portions of the Traditional Neighborhood Development Overlay District until:
 - a. A new Development Plan and Implementation Plan Document (IPD) is resubmitted and is recommended for approval by the Plan Commission to Common Council;
 - b. Common Council approves the Development Plan and Implementation Plan Document (IPD); and
- (2) A one (1) year extension of an approved Development Plan and Implementation Plan Document (IPD) may be granted by Common Council for good cause shown by the applicant.

(n) ***Procedure for approval of a Development Plan within the district.*** No development in a TND overlay district shall be permitted within this district unless it is submitted, reviewed, and approved subject to the following procedures:

All required improvements, construction standards, design standards and all other engineering standards contained within the Municipal Code shall be complied with, except where specifically varied through the provisions of this section of the chapter.

Applications shall be made on forms provided by the City and shall be accompanied by the required plans and documents. The application and all requirements shall be reviewed and determined complete by the Community Development Director. The steps in the procedure are as follows:

- (1) ***Step 1. Pre-application conference.*** Prior to filing a formal application for approval of a TND overlay district Development Plan, the applicant shall schedule a pre-application meeting with the Community Development Director.
 - a. The purpose of the pre-application conference is to provide two-way communication between the applicant, the Community Development Director and City staff regarding the legal, planning, engineering and storm water management aspects of the potential development. Accordingly, the applicant shall submit conceptual plans and other pertinent information to the Community Development Director for review and discussion by other city departments prior to submittal of a TND overlay district application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD). The conceptual plan shall include the entire area of the intended TND overlay district, even if the TND overlay district is to be developed in phases.
 - b. A pre-application conference review shall consider: success in achieving the purposes of the TND overlay district ordinances; adequacy of public and private services and facilities; ability to conform with all applicable codes and ordinances; utilization of commonly accepted principles of good site planning; and consistency with the comprehensive plan.
 - c. Submittal requirements for the TND overlay district application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be reviewed as part of the pre-application conference. A submitted item may be waived as part of this review if determined as not needed, already known or needed at a future review process.
 - d. The aforementioned requirements may be waived at the discretion of the Community Development Director.
- (2) ***Step 2. Application, Development Plan and Implementation Plan Document (IPD).*** The Development Plan, complete application and fee and Implementation Plan Document (IPD) for the TND overlay district shall be submitted by the applicant to the Director who, after determining the application to be complete, will file the Development Plan, complete application and fee, and Implementation Plan Document (IPD) for the TND overlay district. The application and fee shall be filed with the City Clerk and the application, Development Plan(s) and other supporting information, and the Implementation Plan Document (IPD) will be forwarded to the Plan Commission for their consideration, public hearing, and recommendation.

The required procedure for consideration and approval of the TND overlay district shall be:

- a. **Submission of materials.** The applicant shall prepare and submit the following plans and documents:
 1. All information listed in §23-152(o), Specific contents of Development Plans.
 2. Written application and application fee for approval of a TND overlay district to be made on forms and in the manner prescribed by the City.
 3. A completed copy of the Implementation Plan Document (IPD) as prescribed by the City shall be submitted to the Director by electronic mail. The Implementation Plan Document (IPD) functions to

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inform all whom deal with the TND overlay district of the restrictions placed upon the land and acts as a customized zoning district control device.

4. A statement of conformity with City's other relevant ordinances along with a list of any requested variations from these ordinances.

- b. **Development Plan and Implementation Plan Document (IPD) review.** The Director shall coordinate a review of the Development Plan and Implementation Plan Document (IPD) to include review by all relevant departments and submit written findings and recommendations to the Plan Commission for a public hearing.
- c. The TND overlay district zoning map amendment shall comply with 23-65(d)(3) Public Hearing, (4) Authority of Plan Commission, (5) Authority of Common Council, 23-65(e) Standards for Zoning Amendments, and 23-65(f) Time Period.
- d. Period of Validity.
- e. Recording of Development Plan and Implementation Plan Document (IPD).

(Ord 154-24, §1, 11-6-24)

(o) **Specific content of development plans.** TND overlay district Development Plans and supporting data shall include all documentation listed in this section of the zoning ordinance. In developing plans and specifications for all required improvements, the applicant must also conform to the standards set forth in applicable sections of the Municipal Code.

- (1) **Development Plan set.** A complete set of Development Plans, a digital file of the Development Plan, a TND overlay district rezoning or TND overlay district amendment application and the appropriate fee as established by Common Council.

- a. **A topographic survey and location map.**
- b. **Detailed plan.** The applicant shall provide a drawing of the TND overlay district Development Plan shall be prepared at a scale not less than one (1) inch equals one hundred (100) feet, or as considered appropriate by the Community Development Director, and shall show such designations as proposed streets, lots, all buildings showing their setback dimensions to lot lines and their use, common open space, recreation facilities, parking areas showing their setback dimensions to lot lines, service areas and other facilities to indicate the character of the proposed development. Provide note(s) identifying the lot coverage percentage of impervious surface coverage and the percentage of permanent common open space within the TND overlay district.

The submission may be composed of one (1) or more sheets and drawings and shall include:

1. Boundary lines. Bearings, distances and acreage.
2. Easements. Location, width and purpose.
3. Existing land use. On TND overlay district property and up to one hundred fifty (150) feet on adjacent lots.
4. Other conditions on adjoining land such as actual direction and gradient of ground slope, including any embankments or retaining walls; character and location of major buildings, railroads, power lines, towers and other nearby nonresidential land uses or adverse influences, for owners of adjoining platted land refer to subdivision plat by name, recording date and number and show approximate percent built up, typical lot size and dwelling type.
5. Zoning on and adjacent to the tract.

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6. Streets on and adjacent to the tract. Such as street name, right-of-way width, existing or proposed centerline elevations pavement type, walks, curbs, gutters, culverts, etc.
7. General location, purpose, and height of each residential and non-residential building.
8. Map data. Name of development, north point, scale, and date of preparation.
9. An accurate legal description of the entire area within the TND overlay district.

The following subsections 10 through 22 may be waived by the Community Development Director:

10. Proposed public improvements. Such as highways and other major improvements planned by public authorities for future construction on or near the tract.
11. Utilities on and adjacent to the tract such as location, size and invert elevation of sanitary and storm sewers, location and size of water mains, location of gas lines, fire hydrants, electric and telephone lines and street lights, direction and distance to, and size of nearest water mains and sewers adjacent to the tract showing invert elevation of sewers.
12. Ground elevation on the tract and on the first fifty (50) feet on all adjacent tracts. Showing one (1) foot contours for land which slopes less than one-half percent ($\frac{1}{2}\%$) along with all breaks in grades, at all drainage channels or swales and at selected points not more than one hundred (100) feet apart in all directions; for land that slopes more than one-half percent ($\frac{1}{2}\%$) showing two (2) foot contours. Any land within the one hundred (100) year floodplain within the project area shall be identified on these plans.
13. Subsurface conditions on the tract. Tests made to ascertain subsurface soil, rock and groundwater conditions, depth to groundwater, unless test pits are dry at a depth of five (5) feet.
14. Other conditions on the tract. Water courses, marshes, rock outcrops, wooded areas, isolated trees one (1) foot or more in diameter, existing structures and other significant features.
15. Title and certificates. Present tract designation according to official records in office of the Register of Deeds, title under which the proposed development is to be recorded, with names and addresses of owners and notation stating acreage. Owners shall include beneficial owners of any land trust.
16. Names. The names and addresses to who notices of hearings shall be sent, including the subdivider or developer, the designer of the subdivision or development and the owners of the land immediately adjoining the land to be platted.
17. Open space. All parcels of land intended to be dedicated for public use or reserved for the use of all property owners, with the purpose indicated.
18. Miscellaneous. Such additional documents as may be required by the Community Development Director. The Community Development Director shall inform the applicant of such requirements after the pre-application conference.
19. A drainage plan signed by a Wisconsin Registered Professional Engineer that conforms with City standards for site drainage.
20. Tabulation on each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre.
21. An accurate legal description of each separate unsubdivided use area, including open space.
22. A storm water management plan signed by a Wisconsin Registered Professional Engineer that conforms to City Storm Water Management Ordinance.

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- c. **Exceptions.** Identification and explanation of those aspects of the proposed TND overlay district that vary from the zoning ordinance requirements applicable to the underlying zoning district and from other applicable regulations of the City.
- d. **Character.** Explanation of the character of the TND overlay district and the reasons why it has been planned to take advantage of the flexibility of these regulations. This item shall include a specific explanation of how the proposed TND overlay district meets the objectives of this section.
- e. **Ownership.** Statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.
- f. **Landscape and lighting plan.** A general landscape concept plan for the site as well as a lighting concept plan for the site and the effects of such lighting on adjacent properties.

The following subsections g. through p. may be required by the Community Development Director:

- g. **Schedule.** Development schedule indicating:
 - 1. Stages in which the project will be built, with emphasis on area, density, use and public facilities, such as open space to be developed with each stage. Each stage shall be described and mapped as a unit of the project. Overall design of each unit shall be shown on the plan and through supporting graphic material.
 - 2. Dates for beginning and completion of each stage.
- h. **Covenants.** Proposed agreements, provisions, or covenants which will govern the use, maintenance and continued protection of the TND and any of its common open space. Proposed condominium declaration and bylaws of condominium form of ownership or homeowner's association if it is to be used in the TND overlay district.
- i. **Non-residential intensity.** Information on the type and amount of non-residential uses including building locations, sizes, building height, the amount and location of common open space, the hours of operation, number of employees and specific uses.
- j. **Architectural plans.** Preliminary architectural plans for all primary buildings shall be submitted in sufficient detail to permit an understanding of the style of the development, the design elements of the building and the number, size and type of dwelling units.
- k. **Facilities plan.** Development plans and feasibility reports for:
 - 1. Streets, including classification, width of right-of-way, width of pavement and construction details.
 - 2. Sidewalks.
 - 3. Sanitary sewers.
 - 4. Storm drainage.
 - 5. Water supply system.
 - 6. Street lighting.
 - 7. Public utilities.
- l. **Community-benefit analysis.** A study indicating the fiscal impact of the TND overlay district on major taxing bodies which shall include the municipal corporation, school district(s) and other taxing bodies.

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Information will include detailed estimates on: expected population of the development, the operating cost to be incurred by each taxing body, any additional major capital investments required, in part or in whole, because of the TND overlay district, revenue generated for each taxing body by the TND overlay district to offset service and fiscal demands created by the TND overlay district.

- m. **Traffic analysis.** A study of the impact caused by the TND overlay district on the street and highway systems operating in the City.
- n. **Market information.** Documentation indicating the extent of market demand for the uses proposed in the TND overlay district including analysis of demographics, sales potentials, competitive alignment, assessment of market share and market positioning of each component of the TND overlay district.
- o. **Environmental analysis.** The major impacts of the TND overlay district on the environment shall be analyzed and shall disclose all major negative impacts. Generally, these impacts would include effects on discrete ecosystems, deteriorated air quality in the immediate vicinity and along arterial and collector roads leading to the TND overlay district to a distance established by the City Engineer, any deterioration in the groundwater or surface water quality, effect on sensitive land areas such as floodplains, wetlands, forests, aquifer recharge areas, historic buildings or structures.
- p. **Open space standards.** All open space, at the election of the City shall be:
 - 1. Conveyed to the City; or
 - 2. Conveyed to a not-for-profit corporation or entity established for the purpose of benefiting the owners and tenants of the TND overlay district or adjacent property owners or any one (1) or more of them. All lands so conveyed shall be subject to the right of grantee(s) to enforce maintenance and improvement of the common open space; or
 - 3. Guaranteed by a restrictive covenant describing the open space and its maintenance and improvement, running with the land for the benefit of residents of the TND overlay district or adjacent property owners.

(p) **Findings of fact.** In reporting its findings and recommendations on a TND overlay district Development Plan and Implementation Plan Document (IPD) to the Common Council, the Plan Commission will submit findings of fact upon which it has based its recommended action. These findings of fact will relate to the specific proposal and shall set forth with particularity in what respects the proposal would or would not be in the public interest, including findings of fact on the following:

- (1) In what respects the proposed plan is or is not consistent with the stated purpose, requirements, and standards of the TND overlay district regulations.
- (2) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property and the reasons why such departures are or are not deemed to be in the public interest.
- (3) The extent of public benefit of the TND overlay district in terms of meeting planning objectives and enhancing the tax base and economic development. Any specific beneficial actions, plans, or programs agreed to in the TND overlay district proposal which are clearly beyond the minimum requirements of this chapter shall be specifically listed as evidence of justified exceptions.
- (4) The physical design of the proposed plan and the manner in which said design makes adequate provision for public services, provides adequate control over vehicular traffic, provides for common open space and furthers the amenities of light, air, recreation and visual enjoyment.
- (5) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.

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(q) ***Changes in the TND overlay district.*** A TND overlay district shall be developed only according to the approved and recorded Development Plan and Implementation Plan Document (IPD) and all supporting data. The recorded Development Plan, Implementation Plan Document (IPD) and supporting data, together with all recorded amendments, shall be binding on the applicants, their successors, grantees and assigns and shall limit and control the use of the premises (including the internal use of buildings and structures) and location of structures in the TND overlay district, as set forth therein.

(1) ***Major changes.*** Changes which alter the concept or intent of the TND overlay district, including:

- a. Increases in the density by more than ten percent (10%);
- b. Increases in the height of building(s) by more than ten percent (10%);
- c. Reductions of proposed open space by more than ten percent (10%);
- d. Modification in proportion of housing types by more than ten percent (10%);
- e. Changes in standards of infrastructure or alignment of streets, including major alterations in the placement of utilities, water, electricity, drainage or changes in the final governing agreements, provisions or covenants.

Major changes may be approved only by submission of a new Development Plan and supporting data, and following the Development Plan and Implementation Plan Document (IPD) approval steps, holding of a new public hearing and subsequent amendment and recordation of the Implementation Plan Document.

(2) ***Minor changes.*** The Community Development Director may approve minor changes in the TND overlay district that do not change the concept or intent of the development, without going through the Development Plan approval steps. Minor changes are defined as any change not defined as a major change. Any minor changes approved shall be properly filed with the Community Development Director or it shall be automatically deemed to be a major change.

(r) ***TND overlay district design standards.***

(1) ***Open space standards.*** Design standards for open spaces within a TND overlay district are established below:

- a. At least twenty percent (20%) of the gross acreage of the TND overlay district shall be open space, exclusive of yards on private property.
- b. Open space may include undevelopable areas such as steep slopes or wetlands and stormwater detention and retention basins, parks, playgrounds, landscaped green spaces and natural areas.
- c. At least twenty-five percent (25%) of open space must be common open space dedicated to the public for parkland or civic open spaces.
- d. In its design, at least eighty percent (80%) of the lots within areas devoted to residential uses shall be within a quarter (1/4) mile (645 feet) walk from common open space.
- e. The location of common dedicated open spaces shall be consistent with locations established in parks and recreation plans adopted by the City.

One (1) or more open space types as identified below shall be incorporated as an integral part of the TND overlay district as appropriate. Open spaces may be active or passive recreation. Large outdoor recreation areas shall be located in the most appropriate areas of the development to serve the TND overlay district and, potentially the surrounding area, whether at the periphery of neighborhoods or in central locations of the neighborhood.

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1. Environmental corridors;
 2. Protected natural areas;
 3. Community parks;
 4. Streams, ponds and other bodies of water;
 5. Stormwater detention/retention facilities.
- (2) **Mix of uses.** In order to achieve the proximity to make neighborhoods walkable, mixed-use environments are required. Mixes include residential, non-residential and open spaces. Two types of areas are required:
- a. **Residential use area.** The purpose of these areas is to promote a core of residential housing for the TND overlay district. A mix of the following types can occur anywhere within the TND overlay district. For infill development, the mix of residential uses may only be satisfied by infilling with the same type of residential uses that are adjacent to the infill property.

Residential use area uses include:
 1. Single-family detached dwellings;
 2. Single-family attached dwellings including duplexes, townhouses and row houses;
 3. Multi-family dwellings;
 4. Group housing.
 - b. **Mixed use area.** The purpose of these areas is to promote a community center or focal point for the TND overlay district. A mix of non-residential uses including commercial, civic or institutional and open spaces shall be within approximately one quarter (1/4) mile or within a five (5) minute walk from residential use areas.

Mixed-use area uses include:
 1. Commercial (non-residential) uses;
 2. Single-family attached dwellings including duplexes, townhouses and row houses;
 3. Multi-family dwellings;
 4. Residential units located on the upper floors above or to the rear of storefronts;
 5. Public or semi-public uses;
 6. Open spaces including a civic square, neighborhood park or playground.
- (3) **Lot and block standards.** In order to create an environment that is pedestrian friendly, a traditional grid and block system is required.
- a. **Block and lot size diversity.** Street layouts shall provide for blocks that are in the range of four hundred (400) to eight hundred (800) feet long. A variety of lot sizes shall be provided to facilitate housing diversity and choice.
 - b. Blocks shall be established in a grid system without curvilinear streets.

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- c. All access to private garages, service structures and utilities shall be located in an alley that shall be located behind all uses and divide blocks.
- (4) **Circulation standards.** The circulation system in a TND overlay district shall allow for different modes of transportation both internally and with external connections.
- a. Circulation between different modes of transportation shall be minimized (pedestrian, bicycle and motor vehicle).
 - b. Street intersections shall be at right angles.
 - c. Streets shall terminate at other streets or at public land. Stub streets are permitted only when such streets will act as a connection to future phases of development.
- (5) **Parking standards.** Shared or community parking is encouraged. In addition:
- a. Off-street parking areas for commercial businesses and multifamily buildings shall be located at the rear or side of a building.
 - b. In mixed-use areas, adjacent on-street parking may apply toward the minimum off-street parking requirement.
- (6) **Architectural standards.** A variety of architectural features and building materials is required to give each building or group of buildings a distinct character.
- a. **Existing structures.** If an existing structure is determined to be historic or architecturally significant, shall be protected from demolition or encroachment by incompatible structures.
 - b. **New structures.**
 - 1. Height
 - i. New structures in a TND overlay district shall be as regulated in the table in §23-152(f), Area, height and yard requirements.
 - ii. Adjacent buildings shall be no more than twenty-five percent (25%) taller or shorter than the average building height on the block to create a unified streetscape.
 - 2. Entries and facades
 - i. The architectural features, materials, and the articulation of a facade of a building shall be continued on all sides visible from a public street.
 - ii. The front facade of the principal building on any lot in a TND overlay district shall face onto and be parallel to a public street.
 - iii. The front facade shall not be oriented to face directly toward a parking lot.
 - iv. Porches, roofs, roof overhangs, hooded front doors or other similar architectural elements shall define the front entrance to all residences.
 - v. For commercial buildings, a minimum of fifty percent (50%) of the front facade on the ground floor shall be transparent, consisting of window or door openings allowing views into and out of the interior.
 - vi. New structures on opposite sides of the same street should follow similar design guidelines. This provision shall not apply to buildings bordering civic uses.

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- (7) ***Signage standards.*** A master sign program is required for the TND overlay district that establishes a uniform exterior sign theme. Signs shall share a common style (e.g. size, shape, material). Signage shall be limited to wall, awning and projecting signage pursuant to the area and size requirements of Article XIV, Signs.

- (8) ***Street trees.*** One (1) street tree shall be required per forty (40) feet of street frontage. Deciduous canopy trees shall be used.

(Ord 61-94, §5, 5-18-94; Ord 106-96, §1a, 11-6-96; Ord 121-05, §1, 10-25-05; Ord 85-06, §1, 7-11-06; Ord 162-08, §1, 10-7-08; Ord 211-11, §1, 9-27-11; Ord 115-23, §1, 10-10-23)

Secs. 23-153 – 23-171. Reserved.

ARTICLE IX. OFF-STREET PARKING AND LOADING

Sec. 23-172. Off-street parking and loading standards.

(a) **Purpose.** The purpose of this section is to prevent or alleviate the congestion of the public streets and promote the safety and welfare of the public by establishing minimum requirements for off-street parking and loading spaces according to the use of the property and to promote safety and convenience for people by requiring that off-street parking spaces and driveways be located and constructed according to consistent standards for visibility, accessibility and safety.

(b) **Applicability.**

- (1) All uses hereafter established, reconstructed, expanded, or changed in use shall provide off-street parking spaces, bicycle parking spaces and loading spaces in accordance with the applicable standards set forth in this chapter, unless otherwise stated in this chapter.
- (2) All off-street parking lots and spaces, bicycle parking spaces and loading spaces shall be maintained, overlayed, resurfaced, rehabilitated, constructed, reconstructed or expanded in accordance with the applicable standards set forth in this chapter, unless otherwise stated.

(c) **Provisions for nonconforming off-street parking lots, or loading areas.**

- (1) Provisions for maintenance, overlays, resurfacing, rehabilitation, reconstruction or expansions of nonconforming off-street parking lots or loading areas are found under the Nonconforming Buildings, Structures, Uses and Lots section of this chapter.

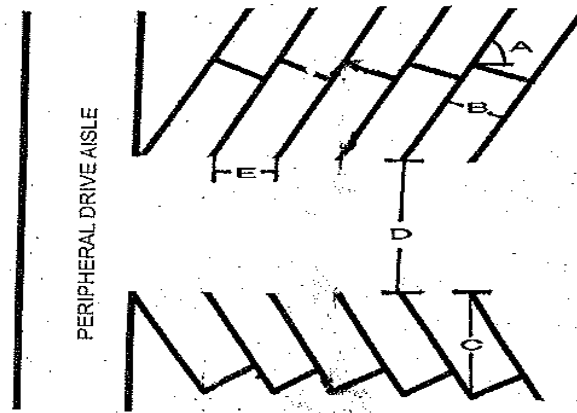
(d) **Exceptions to design standards.** The following are exempt from the design standards of this chapter.

- (1) Due to the primarily pedestrian orientation of the Central Business District (CBD), provision for off-street parking and loading spaces are not required for uses in the CBD. However, new or expanded parking lots and loading areas in the CBD shall comply with the off-street parking and loading requirements of this section, including standards governing design, interior landscaping, and perimeter landscaping.
- (2) Parking ramps and underground parking facilities. Shall be exempt from dimensional and landscaping requirements of this section, but all other requirements of this section shall be complied with.
- (3) Semi truck and trailer parking areas within industrial districts and designed solely for semi-truck and trailer parking shall be exempt from dimensional, striping, surfacing and interior landscaping requirements, provided all of the following requirements are complied with.
 - a. The entrance must be asphalt or concrete for at least the first twenty-five (25) feet from the right-of-way.
 - b. All loading areas must be asphalt or concrete.
 - c. The gravel must be periodically graded and maintained in a dust free manner, free of debris, weeds and other plant materials.
 - d. The street adjoining the driveway must be free of gravel from the parking lot.
 - e. A gravel semi-truck and trailer parking area shall not be located adjacent to a residentially zoned parcel.

(e) **Design standards.** All off-street parking spaces and off-street parking lots or areas shall conform to the following design requirements, unless otherwise stated in this chapter:

Table 1
Off-Street Parking Spaces

Angle A (in degrees)	Width B	Depth C	Aisle D		Stall E
			One Way	Two Way	
0	9 feet	N/A	12 feet	22 feet	22 feet
45	9 feet	19 feet	13 feet	22 feet	12½ feet
60	9 feet	20½ feet	18 feet	24 feet	10½ feet
90	9 feet	18 feet	24 feet	24 feet	9 feet



- (1) **Dimensions.** The minimum dimensional standards for off-street parking spaces shall be as identified in Table 1, Off-Street Parking above.
- (2) **Striping.** All off-street parking spaces shall be striped according to the standards of Table 1, Off-street Parking Spaces of this section to facilitate the movement into and out of the off-street parking spaces.
- (3) **Maneuvering.** All off-street parking spaces shall be designed to provide all maneuvering to occur within the property line(s). Vehicles shall not back into the public right-of-way from an off-street parking lot or parking space. Alleys are an exception to this provision, as maneuvering may occur within alley right-of-way when authorized by the Director of the Department of Public Works or designee.
- (4) **Parking space for handicapped.** Any off-street parking lot, parking ramp or underground parking facility to be used by the general public shall provide parking spaces designated and located to adequately accommodate the handicapped. These spaces shall comply with the current edition of the International Code Council/American National Standards Institute (ICC/ANSI) as adopted by the State of Wisconsin and the current Federal standards of the Americans with Disabilities Act Accessibility Guidelines (ADAAG).
- (5) **Drainage.** All off-street parking areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties and onto sidewalks unless this requirement is waived by the Director of Public Works or their designee. On-site storm drainage shall be provided in accordance with the State Plumbing Code, City Plumbing Code, and the City Stormwater Management Ordinance.

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(6) ***Protection Devices.***

- a. Barriers, curbing, guardrails or wheel stops may be installed and so located as to prevent any portion of a vehicle from projecting beyond property lines, into any required landscaping and screening, or into a pedestrian space. Such barriers, curbing or wheel stops shall be constructed and anchored to prevent their dislocation.
- b. When guardrails are installed, they shall be installed in accordance with all of the following provisions:
 - i. Guardrails shall abut the paved off-street parking lot, parking space, loading space or driveway surface and shall be located adjacent to a side or rear lot line.
 - ii. Landscape buffering or fencing shall be installed between the guardrail and a residentially zoned property line.
 - iii. Guardrails shall not exceed three (3) feet in height.
 - iv. Guardrails may be constructed of naturally resistant or treated wood board, galvanized metal, wrought iron, brick, natural stone, masonry, or other material as approved by the Community Development Director.

(7) ***Surface areas for off-street parking spaces.*** Off-street parking spaces and driveways, shall be concrete, asphalt, or another permeable hard surface as approved by the Community Development Director.

(8) ***Fire access lanes.*** Fire access lanes located outside of an off-street parking lot and constructed for the purpose of fire access may be constructed with an alternative surface material as required by §23-172(f)(7) if approved by the Fire Department.

(9) ***Lighting.*** All outdoor lighting shall comply with the outdoor lighting requirements of this chapter.

(10) ***Snow storage.*** Snow storage must be provided on-site or a letter from the owner of the property stating the method to remove the snow from the site in a timely fashion must be approved by the Community Development Director. Snow storage areas will be reviewed to ensure the continued health of plant materials and for their impact on drainage and vehicular circulation.

(11) ***Stop sign.*** When access is obtained from a collector or arterial street, a stop sign is required to be erected on the property by the owner. Stop signs shall be installed and maintained in accordance with the Federal Highway Administration Manual of Uniform Traffic Control Devices, the latest version.

(f) ***Interior parking lot landscaping.***

- (1) All parking lots designed for twenty (20) or more parking spaces shall be landscaped in accordance with the following interior parking lot standards.
 - a. Five percent (5%) of the minimum square footage of the paved area of the off-street parking lot shall be devoted to interior landscape islands.
 - b. The primary plant materials shall be shade or ornamental trees with at least one (1) shade tree for every two hundred (200) square feet of interior landscape island area, except in cases where drainage, stormwater, or utility features preclude the planting of trees.
 - c. The interior landscape islands shall be dispersed throughout the off-street parking lot to the satisfaction of the Community Development Director.
- (2) All off-street parking lots designed for nineteen (19) off-street parking spaces or less shall provide landscaping as deemed appropriate by the Community Development Director.

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(g) **Perimeter parking lot and loading space landscaping.** Perimeter off-street parking lot landscaping shall be installed on the property, outside of the street right-of-way.

- (1) The minimum width of the perimeter landscape buffer adjacent to the right-of-way and/or abutting zoning districts shall be as stated in Table 2, Parking Lot and Loading Space Buffering Requirements.
- (2) When adjacent to a residential zoning district in the rear and/or side yard, perimeter landscape buffer shall be required as stated in Table 2, Parking Lot and Loading Space Buffering Requirements.
- (3) When adjacent to an institutional, commercial or industrial zoning district in the rear and/or side yard, perimeter landscape buffer shall be required as stated in Table 2, Parking Lot and Loading Space Buffering Requirements.
- (4) Perimeter landscaping shrubs must reach three (3) feet in height and screen the right-of-way from the adverse effects of the parking lot within two (2) years of planting. The shrubs shall be a minimum of two (2) feet in height at the time of planting.
- (5) A side and/or rear yard minimum perimeter landscape buffer may be waived if a cross access easement agreement between adjoining property owners is recorded and submitted to the Community Development Department for review.

(h) **Maintenance.** All off-street parking lots shall be maintained by the property owner in good condition without holes or faded striping and free of all weeds, standing water, trash, abandoned or junk vehicles and other debris.

Table 2 Parking Lot Buffering Requirements

When the Zoning District is:	Location is:	A Minimum Perimeter Landscape Buffer	Perimeter Landscaping Materials
C-O, M-1, M-2, P-I	Abutting R-1A, R-1B, R-1C, R-2, or R-3 zoned lot in the rear and/or side yard	Fifteen (15) feet in width	Minimum five (5) foot high staggered row of evergreens at the time of planting, to provide an opaque screen OR The property owner may request a waiver from the Community Development Director to reduce the minimum perimeter landscape strip by 50% and provide a minimum six (6) foot high alternating board on board fence with landscaping, with the landscaping facing the adjacent property.
C-1, C-2, CBD, AG, P, NC	Abutting R-1A, R-1B, R-1C, R-2, or R-3 zoned lot in the rear and/or side yard	Ten (10) feet in width	
C-O, C-1, C-2, M-1, M-2, P-I, CBD, AG, P, NC	Abutting C-O, C-1, C-2, M-1, M-2, P-I, CBD, AG, P or NC zoned lot in the rear and/or side yard	Five (5) feet in width	One (1) deciduous shade tree or ornamental tree shall be planted for every fifty (50) feet on center. Trees can be provided in cooperation with adjacent property.
C-O, C-1, C-2, M-1, M-2, CBD, P-I, AG, P, NC	Across the street from R-1A, R-1B, R-1C, R-2 or R-3 zoned lot	Eight (8) feet in width adjacent to the right of way	One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the property abuts a dedicated public street plus a two (2) to three (3) feet high staggered row of evergreens at the time of planting shall be provided across 80% of the frontage of the

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When the Zoning District is:	Location is:	A Minimum Perimeter Landscape Buffer	Perimeter Landscaping Materials
			parking lot excluding driveways to provide an opaque screen.
C-O, C-1, C-2, P-I, M-1, M-2, CBD, AG, P, NC	Across the street from C-O, C-1, C-2, P, NC, M-1, AG, CBD, P-I or M-2 zoned lot	Eight (8) feet in width adjacent to the right of way	One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the property abuts a dedicated public street plus a two (2) to three (3) feet high staggered row of evergreens and/or deciduous shrubs at the time of planting shall be provided across 80% of the frontage of the parking lot excluding driveways to provide an opaque screen.
Ag, R-1A, R-1B, R-1C, R-2, R-3	Abutting R-1A, R-1B, R-1C or R-2 zoned lot in the rear and/or side yard	Ten (10) feet in width	Minimum five (5) foot high staggered row of evergreens at the time of planting, to provide an opaque screen; OR The property owner may request a waiver from the Community Development Director to reduce the minimum perimeter landscape strip by 50% and provide a minimum six (6) foot high alternating board on board fence with landscaping, with the landscaping facing the adjacent property.
Ag, R-1A, R-1B, R-1C, R-2, R-3	Abutting R-3, P-I, C-O, C-1, C-2, CBD, M-1, M-2, AG, P or NC zoned lot in the rear and/or side yard	Five (5) feet in width	One (1) deciduous shade tree or ornamental tree shall be planted for every fifty (50) feet on center. Trees can be provided in cooperation with adjacent property.
Ag, R-1A, R-1B, R-1C, R-2, R-3	Across the street from R-1A, R-1B, R-1C or R-2 zoned lot	Eight (8) feet in width adjacent to the right of way	One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the property abuts a dedicated public street plus a two (2) to three (3) feet high staggered row of evergreens at the time of planting shall be provided across 80% of the frontage of the parking lot excluding driveways to provide an opaque screen.
Ag, R-1A, R-1B, R-1C, R-2, R-3	Across the street from P-I, C-O, C-1, C-2, CBD, M-1, M-2, AG, P or NC zoned lot	Eight (8) feet in width adjacent to the right of way	One (1) deciduous shade tree or ornamental tree shall be planted for every forty (40) feet on center the property abuts a dedicated public street plus a two (2) to three (3) feet high staggered row of evergreens and/or deciduous shrubs at the time of planting shall be provided across 80% of the frontage of the parking lot excluding driveways to provide an opaque screen.

(i) ***Off-site parking spaces.*** The following regulations shall apply to off-site parking spaces and areas:

- (1) Off-street parking spaces for all residential uses shall be located on the same lot as the use to which they are associated.
- (2) Off-street parking spaces for commercial, industrial or public institutional uses shall be located not more than five hundred (500) feet from the property line of the use being served.
- (3) Where such off-site parking spaces are provided, the minimum number of required off-street parking spaces for the use(s) for which the lot is intended to serve shall not be reduced below the minimum required off-street parking spaces for all uses as indicated in this section.
- (4) Where such off-site parking spaces are provided on a separate lot to comply with the minimum off-street parking space requirements, shall be guaranteed by written agreement between the owner of the parking lot and the owner of any use located on a separate parcel and served the off-street parking lot. This written agreement may be in the form of a lease, contract, easement or similar instrument, of which the form and duration shall be subject to review and approved by the Community Development Director.
- (5) The property owners shall record the approved off-site parking space agreement in the County Register of Deeds Office, and shall provide one (1) copy of the recorded document to the Community Development Department.
- (6) Any subsequent change in use shall require proof that the minimum parking requirements, per this chapter, have been met for each use of if the owner of a building or use no longer has the right to maintain or use off-site parking spaces on a separate parcel, the owner of a building or use shall have one hundred eighty (180) days within which to accommodate all required off-street parking spaces or to apply for a variance. If the owner is unable to accommodate the off-street parking spaces, or fails to apply for a variance, then the occupancy permit shall be revoked with respect to the building or use for which the separate off-street parking was required. The occupancy permit shall be reinstated when all applicable provisions of this chapter are complied with. As an alternative, a new off-site parking agreement may be arranged in accordance with this chapter.

(j) ***Determination of required off-street parking spaces.*** In computing the number of off-street parking spaces required by this chapter, the following shall apply:

- (1) Where floor area is designated as the standard for determining parking space requirements, floor area shall be the sum of the gross square footage of all floors that may be occupied of a building.
- (2) Where maximum capacity is designated as the standard for determining off-street parking space requirements, the maximum capacity shall mean the maximum number of persons permitted to occupy the building under the International Building Code (IBC) and the International Fire Code (IFC), whichever is more restrictive, currently used by the City.
- (3) Where the number of employees is designated as the standard for determining off-street parking space requirements, the number of employees on the largest shift shall be used for calculation purposes.
- (4) Fractional numbers shall be increased to the next highest whole number.
- (5) An applicant may request an administrative adjustment for a reduction in the number of parking spaces required by §23-172(m). The request shall be submitted in writing and provide justification for the reduction, including estimates of parking demand or other acceptable data as approved by the Community Development Director. Sources of data may include, but are not limited to, the Institute of Transportation Engineers or Urban Land Institute. Community Development staff may approve up to a twenty percent (20%) reduction. Any reductions greater than 20% shall require a variance from the Board of Appeals.

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(k) **Determination of parking standards not specified.** Off-street parking space requirements for a use not specifically mentioned in this chapter shall be determined by using the most similar and restrictive off-street parking space requirement as specified by the Community Development Director based on the intended use, the location of the use, and the expected patronage or use by individuals operating motor vehicles.

(l) **Applicability of bicycle parking space requirements.** All uses, except for single and two-family dwellings, hereafter established, reconstructed, expanded, changed in use shall provide bicycle parking spaces in accordance with the standards set forth in this chapter, unless otherwise stated in this chapter. The Central Business District (CBD) is exempt from the bicycle parking standards.

(1) **Design requirements:**

- a. **Surfacing:** Bicycle parking spaces shall be concrete, asphalt or other hard surface such as permeable pavers.
- b. **Location:** Required bicycle parking spaces may be located indoors or outdoors and must be located on private property.
- c. **Rack/Locker/Support Design:**
 - i. For each bicycle parking space required, a stationary rack(s) shall be provided which can accommodate bicyclists' locks securing the frame and/or wheels, or a lockable enclosure in which the bicycle is stored shall be provided.
 - ii. All bicycle racks, lockers, or other facilities shall be securely anchored to the ground or a structure which must hold bicycles securely by means of the frame.

(m) **Required spaces for specific uses.** All vehicles connected with the following uses shall be accommodated for on the property in addition to the requirements stated below unless otherwise stated in this chapter. Additional parking as determined by the Community Development Director may be required to meet these standards. The table on the following page identifies the minimum number of off-street parking spaces to be provided.

Use Type	Minimum Off-Street Parking Spaces Required
Residential	
Adult family home	Up to three (3) bedrooms - Two (2) spaces for each dwelling unit.
	Four (4) or more bedrooms – Three (3) spaces for each dwelling unit.
Bed and breakfast establishment	Two (2) spaces for each dwelling unit plus one (1) space for each tourist room with screening approved by Community Development Director
Dwelling, multi-family	Up to two (2) bedrooms – One space for each dwelling unit.
	Three (3) or more bedrooms – Two (2) spaces for each dwelling unit.
	Visitor parking – One (1) space for every two (2) dwelling units.
Dwelling, single-family detached and zero lot line two-family dwellings	Up to three (3) bedrooms - Two (2) spaces for each dwelling unit
	Four (4) or more bedrooms – Three (3) spaces for each dwelling unit
Dwelling, two-family	Up to three (3) bedrooms – Two (2) spaces for each dwelling unit
	Four (4) or more bedrooms – Three (3) spaces for each dwelling unit
Residential care apartment complex	Up to two (2) bedrooms – One (1) space for each dwelling unit
	Three (3) or more bedrooms – Two (2) spaces for each dwelling unit
Use Type	Minimum Off-Street Parking Spaces Required
Public/Institutional	
Assisted living facility, nursing or convalescent home	One (1) space for every three (3) residents based on the maximum number of residents allowed by license.

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Auditoriums, stadium, gymnasium	One (1) space for every five (5) persons based on maximum capacity
Bus terminal	One (1) space for each five hundred (500) square feet of gross floor area or one (1) space for every five (5) seats; whichever is greater
Cemetery Chapel	One (1) space for every six (6) persons based on maximum capacity
Club	One (1) space for every five (5) persons based on maximum capacity
Community-based residential facility or community living arrangement	One (1) space for every three (3) residents based on the maximum number of residents allowed by license.
Dormitories	One (1) space for every six (6) occupants.
Educational institution; business, technical or vocational	Classrooms – One (1) space for every three (3) seats based on maximum capacity
	Gymnasiums/auditoriums – One (1) space for every five (5) persons based on maximum capacity
Educational institution; college or university	Classrooms – One (1) space for every three (3) seats based on maximum capacity
	Gymnasiums/auditoriums – One (1) space for every five (5) persons based on maximum capacity
Educational institution; elementary school or middle school	One (1) space for each employee
	Stacking spaces – A minimum of two (2) stacking spaces shall be provided for busses and five (5) for automobiles in a designated drop off area
Educational institution; high school	One (1) space per employee plus one (1) space per ten (10) students based on classroom capacity
	Stacking spaces – A minimum of two (2) stacking spaces shall be provided for busses and five (5) for automobiles in a designated drop off area
Golf course	Four (4) spaces for each hole
	Clubhouse – One (1) space for every four (4) persons based on maximum capacity.
Governmental facility	Shall be provided at a ratio of same or similar uses listed in this chapter
Museum	One (1) space for each five hundred (500) square feet of gross floor area
Hospital	One (1) space for each bed plus one (1) space for each two hundred (200) square feet in any emergency room and/or outpatient area
Place of worship	One (1) space for each eight (8) persons based on maximum capacity in the main place of assembly
Recreational facility, non-profit	One (1) space for each five (5) persons based on maximum capacity
Registered historic place	One (1) space for each four hundred (400) square feet of usable floor area open to the public

(Ord 132-23, §1, 10-10-23)

Use Type	Minimum Off-Street Parking Spaces Required
Commercial	
Amusement arcade	One (1) space for each five (5) persons based on maximum capacity
Automobile maintenance shop	Four (4) spaces for each service bay.
Automobile, RV, truck, cycle, boat sales and display lot or rental lot	One (1) space for each four hundred (400) square feet of gross floor area under roof plus one (1) space for each two thousand (2,000) square feet of open sales lot area devoted to the sale and display of vehicles
Bar – See Tavern	
Body repair and/or paint shop	Four (4) spaces for each service bay
Car wash	Drive-in – Six (6) stacking spaces for each washing bay
	Self-service – Three (3) stacking spaces for each washing bay
Commercial entertainment, Indoor	One (1) space for each three (3) seats or one space for each two hundred

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Use Type	Minimum Off-Street Parking Spaces Required
Commercial	
	(200) square feet of gross floor area whichever is greater
Commercial entertainment, Outdoor	One (1) space for each three (3) seats or one space for each two hundred (200) square feet of outdoor entertainment area, whichever is greater
Commercial entertainment, combination of indoor and outdoor	One (1) space for each three (3) seats or one space for each two hundred (200) square feet of gross floor area or outdoor entertainment area, whichever is greater
Craft-Distillery	One (1) space for each three (3) persons based on maximum capacity.
Day care center, adult	One (1) space for each employee plus one (1) space for each five (5) persons based on maximum capacity
Day care center, group	One (1) space for employee plus one (1) space for each five (5) children based on the maximum number of children allowed by license.
Gasoline sales	Two (2) spaces located at each pump.
Greenhouse/greenhouse nursery	One (1) space for every one thousand (1,000) gross square feet of sales area
Hotel/motel	One (1) space for each sleeping room plus
	Restaurants/taverns – One (1) space for each three (3) persons based on maximum capacity
	Meeting rooms/assembly areas – One (1) space for every five (5) persons based on maximum capacity
Kennel, indoor or outdoor	One (1) space for each employee plus one (1) space for ten (10) animals served
Marina	One (1) space for two (2) boat slips
Microbrewery/Brewpub	One (1) space for each three (3) persons based on maximum capacity
Office	One (1) space for each three hundred (300) square feet of gross floor area
Painting/Craft studios	One (1) space for each three (3) persons allowed based on maximum capacity
Personal service	One (1) space for each two hundred fifty (250) square feet of gross floor area
Printing	One (1) space for each two hundred fifty (250) square feet of gross floor area
Professional service	One (1) space for each two hundred fifty (250) square feet of gross floor area
Recycling and waste recovery center	One (1) space for each five hundred (500) square feet of gross floor area
Restaurant	One (1) space for each three (3) persons allowed based on maximum capacity
Restaurant, fast food	One (1) space for each two (2) persons allowed based on maximum capacity
Retail business	One (1) space for each two hundred fifty (250) square feet of gross floor area
Sexually-oriented establishment	One (1) space for each three (3) persons based on maximum capacity
Shopping center	Under 100,000 square feet of gross floor area – One (1) space for each two hundred fifty (250) square feet of gross floor area
	100,000 square feet to under 250,000 square feet of gross floor area – One (1) space for each three hundred (300) square feet of gross floor area
	Over 250,000 square feet of gross floor area – One (1) space for each four hundred (400) square feet of gross floor area
Tasting room	One (1) space for each three (3) persons allowed based on maximum capacity
Tavern	One (1) space for each three (3) persons allowed based on maximum capacity
Towing business	One (1) space for each employee plus sufficient space for vehicles towed

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Use Type	Minimum Off-Street Parking Spaces Required
Commercial	
Veterinarian clinic	One (1) space for each two hundred fifty (25) square feet of gross floor area
Wholesale facility	One (1) space for each one thousand (1,000) square feet of gross floor area
Winery	One (1) space for each three (3) persons based on maximum capacity

(Ord 133-23, §1, 10-10-23)

Use Type	Minimum Off-Street Parking Spaces Required
Industrial	
Asphalt plant	One (1) space for each employee on the largest shift
Brewery	One (1) space for each one (1) employee on the largest shift, plus three (3) visitors spaces, plus space to accommodate all company vehicles in connection therewith
Bulk flammable or combustible liquid storage or distribution facility	One (1) space for each employee on the largest shift
Concrete mixing	One (1) space for each employee on the largest shift
Distillery	One (1) space for each one (1) employee on the largest shift, plus three (3) visitors spaces, plus space to accommodate all company vehicles in connection therewith
Freight distribution or moving center	One (1) space for each one thousand (1,000) square feet of gross floor area
Manufacturing; custom, light or heavy	One (1) space for each one (1) employee on the largest shift, plus three (3) visitors spaces, plus space to accommodate all company vehicles in connection therewith
Research laboratory or testing facility	One (1) space for each five hundred (500) feet of gross floor area
Salvage yard or junk facility	One (1) space for each employee on the largest shift plus space to accommodate all company vehicles in connection therewith
Warehouse (storage or distribution)	One (1) space for each employee on the largest shift plus three (3) visitor spaces plus space to accommodate all company vehicles in connection therewith

(n) **Applicability of off-street loading requirements.** All uses hereafter established, reconstructed, expanded, changed in use shall provide loading spaces or loading docks in accordance with the standards set forth in this chapter, unless otherwise stated in this chapter.

(1) **Design requirements:**

- a. **Size of off-street loading spaces:** Off-street loading spaces shall not be less than twelve (12) feet wide and thirty (30) feet long for commercial uses and not less than twelve (12) feet wide and sixty (60) feet long for manufacturing uses. Areas dedicated to off-street loading spaces shall be identified with pavement marking and/or signage, indicating that such space(s) are reserved for loading and unloading.
- b. **Surfacing:** All off-street loading spaces shall be constructed of a durable and dustless hard surface of asphalt, concrete, or other suitable materials capable of withstanding one thousand (1,000) pounds per square inch (psi).
- c. **Drainage:** All off-street loading spaces shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties and onto sidewalks, unless this requirement is waived by the Director of Public Works or their designee. On-site storm drainage shall be provided in accordance with the State Plumbing Code, City Plumbing Code, and the City Stormwater Management Ordinance.

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- d. **Location:** All required off-street loading spaces shall be located on the same lot as the specific use to be served. In no case shall an off-street loading space be located within the required principal building front yard setback.
- e. **Screening:** Off-street loading spaces shall be screened in accordance with the following standards:
 - i. When abutting residentially zoned property, a masonry wall, solid fence, chain link fence with slats, row of evergreen shrubs, or a combination of the above, a minimum of eight (8) feet in height, shall be installed to screen the entire length of the loading space from abutting residentially zoned property. Such masonry wall, solid fence or slats shall complement the exterior of the principal building.
 - ii. When abutting non-residentially zoned properties, loading spaces shall be screened in accordance with the perimeter landscaping standards of Table 2 Parking Lot Buffering Requirements of this chapter, or with a masonry wall, solid fence, chain link fence with slats, row of evergreen shrubs, or a combination of the above, a minimum of eight (8) feet in height. Such masonry wall, solid fence or slats shall complement the exterior of the principal building.
 - iii. When abutting a right-of-way, loading spaces shall be screened in accordance with the perimeter landscaping standards of Table 2 Parking Lot Buffering Requirements of this chapter, or with a masonry wall, solid fence, chain link fence with slats, row of evergreen shrubs, or a combination of the above, a minimum of eight (8) feet in height. The buffer shall be installed between the loading space and the right-of-way. Such masonry wall, solid fence or slats shall complement the exterior of the principal building.
- f. **Lighting:** All outdoor lighting shall comply with the outdoor lighting requirements of this chapter.
- g. **Maneuvering:** All off-street loading spaces shall be designed so that all maneuvering occurs within the property line(s). Vehicles shall not back from or into the public right-of-way when accessing off-street loading spaces.

(2) **Required number of off-street loading spaces:**

- a. **Personal services, professional services, hospitals and hotels or motels:**
 - i. One (1) space for each ten thousand (10,000) to fifty thousand (50,000) square feet of gross floor area.
 - ii. Two (2) spaces for each fifty thousand (50,000) to two hundred thousand (200,000) square feet of gross floor area.
 - iii. One (1) additional space for each seventy-five thousand (75,000) square feet of gross floor area in excess of two hundred thousand (200,000) square feet of gross floor area.
- b. **Other commercial uses, warehouse and industrial uses:**
 - i. One (1) space for each five thousand (5,000) to twenty thousand (20,000) square feet of gross floor area.
 - ii. Two (2) spaces for each twenty thousand (20,000) to one hundred thousand (100,000) square feet of gross floor area.
 - iii. One (1) additional space for each seventy-five thousand (75,000) square feet of gross floor area in excess of one hundred thousand (100,000) square feet of gross floor area.

(o) **Size of stacking space.** The minimum size standard for a stacking space shall be at least nine (9) feet wide by nineteen (19) feet in length.

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(Ord 121-05, §1, 10-25-05; Ord 90-07, §1, 5-8-07; Ord 166-07, §1, 12-25-07; Ord 163-08, §1, 10-7-08; Ord 212-11, §1, 9-27-11; Ord 234-11, §1, 12-27-11; Ord 49-20, §1, 3-24-20; Ord 50-20, §1, 3-24-20; Ord 51-20, §1, 3-24-20; Ord 52-20, §1, 3-24-20; Ord 53-20, §1, 3-24-20)

Editor's Note*: Article IX of Chapter 23, Off-street parking and loading was repealed and recreated by Ordinance 234-11, adopted by Council on December 21, 2011, published on December 26, 2011 and became effective on December 27, 2011.

Secs. 23-173 – 23-200. Reserved.

ARTICLE X. FLOODPLAIN ZONING

DIVISION 1. STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS

Sec. 23-201. Statutory authorization.

This ordinance is adopted pursuant to the authorization in s. 61.35 and 62.23 and the requirements in s. 87.30, Stats. (Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-202. Finding of fact.

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base. (Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-203. Statement of purpose.

This ordinance is intended to regulate floodplain development to:

- (a) Protect life, health and property;
 - (b) Minimize expenditures of public funds for flood control projects;
 - (c) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
 - (d) Minimize business interruptions and other economic disruptions;
 - (e) Minimize damage to public facilities in the floodplain;
 - (f) Minimize the occurrence of future flood blight areas in the floodplain;
 - (g) Discourage the victimization of unwary land and homebuyers;
 - (h) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
 - (i) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.
- (Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-204. Title.

This ordinance shall be known as the Floodplain Zoning Ordinance for City of Appleton, Wisconsin. (Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-205. General provisions.

(a) **Areas to be regulated.** This ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

(b) **Official maps and revisions.** The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be Supp. #100

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reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see Division 8 *Amendments*) before it is effective. No changes to 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 Department of Public Works, City of Appleton. If more than one map or revision is referenced, the most restrictive information shall apply.

(1) ***Official maps based on the FIS:***

- a. Calumet County Flood Insurance Rate Map (FIRM), panel numbers 55015C0007E, 55015C0026E and 55015C0027E dated February 4, 2009; with corresponding profiles that are based on the Calumet County Flood Insurance Study (FIS), dated February 2009, volume number 55015CV000A.
- b. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0304E, and 55087C0308E dated January 20, 2016; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated January 20, 2016, volume number 55087CV000B.
- c. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0309D, 55087C0314D, 55087C0316D, 55087C0317D, 55087C0318D, 55087C0319D, 55087C0330, 55087C0338D, 55087C0427D, 55087C0431D and 55087C451D dated July 22, 2010; with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A.
- d. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0328D, 55087C0329D, 55087C0336D, 55087C0337D dated July 22, 2010 and revised August 23, 2013 with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A, all revised and annotated pursuant to FEMA Letter of Map Revision Determination Document Case No: 12-05-6032P, Issue Date April 10, 2013, Effective Date August 23, 2013.

Approved by: The DNR and FEMA

(2) ***Official maps based on other studies.*** Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.

- a. 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.
- b. 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.
- c. LOMR – Case #17-05-1963P. Floodplain revisions on Outagamie County Flood Insurance Study (FIS) AAL Tributary Cross Section C, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0336D, effective September 29, 2017. This reflects changes along the AAL Tributary from just downstream of Lightning Drive to approximately 200 feet upstream of East Glenhurst Lane.
- d. LOMR – Case #17-05-3854P. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) Fox River Cross Section AS through AW, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0319D, effective February 16, 2018. This reflects changes along the Fox River from just upstream of railroad to just downstream of South Oneida Street.
- e. LOMR – Case #20-05-2300P. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) Apple Creek North Cross Section H through J, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0328D, effective July 22, 2010. This reflects changes along Apple Creek North from approximately 1,440 feet downstream of Harrier Lance to approximately 160 feet downstream of Ballard

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Road.

- f. LOMR – Case #21-05-2374P. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) Apple Creek Northeast Cross Section H through I, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0328D, effective January 27, 2023. This reflects changes along Apple Creek Northeast from approximately 700 feet downstream of Rubyred Drive to approximately 350 feet downstream of French Road.
- g. LOMR – Case #24-05-0370P. Floodplain revisions to Outagamie County Flood Insurance Study (FIS) AAL Tributary from just upstream of East Glenhurst Lane to just downstream of East Everbreeze Circle, Outagamie County Flood Insurance Rate Map (FIRM) panel 55087C0336D, effective September 16, 2025.
- h. Kensington Pond Dam Failure analysis approved by the Department of Natural Resources on January 7, 2008, including:
 - 1. Map dated July 2007 and titled “Figure 2, City of Appleton, Kensington Pond Dam Break Analysis, Hydraulic Shadow” (Hydraulic Shadow boundary from Cross Section 0.001 to 4.84).
 - 2. Floodway data table dated 8/28/2007 and titled “Table F-10, Maximum Water Surface Elevations, Kensington Pond Dam Break Analysis, City of Appleton”.
 - 3. Flood profiles dated 7/10/2007 and titled “Figure 3, Maximum Water Surface Profiles” (Hydraulic Shadow profile from Garners Creek Sta 0 to Sta 25000). Revisions made as a result of DNR review and received from Pete Neuberger via email 2/23/2021.
- i. 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 floodplain zoning districts.*** The regional floodplain areas are divided into four 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 and are contained within AE Zones as shown on the FIRM.
- (2) The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.
- (3) The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.
- (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 subd (1) or (2) below. If a significant difference exists, the map shall be amended according to Division 8 *Amendments*. 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 Sec. 23-293(c) and the criteria in (1) and (2) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Division 8 *Amendments*.

- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The
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regional or base flood elevations shall govern if there are any discrepancies.

- (2) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.

(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 *Amendments*.

(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 s. 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 s. 30.2022, Stats., applies.

(h) **Abrogation and greater restrictions.**

- (1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 62.23 or s. 87.30, Stats., which relate to floodplains. A more restrictive 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 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. This ordinance does not 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.** Respective of the County in which a given parcel is located, the Outagamie County, Calumet County, and Winnebago County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, *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 floodway location.

(Ord 54-06, §1, 3-21-06; Ord 20-09, §1, 1-13-09; Ord 107-10, §1, 7-13-10; Ord 34-12, §1, 4-18-12; Ord 78-13, §1, 9-10-13; Ord 12-14, §1, 4-8-14; Ord 52-15, §1, 6-9-15; Ord 103-15, §1, 12-8-15; Ord 55-17, §1, 8-8-17, Ord 13-18, §1, 1-23-18; Ord 13-21, §1, 4-21-21; Ord 32-22, §1, 4-20-22; Ord 2-23, §1, 1-24-2023; Ord 100-25, §1, 08-06-25)

Secs. 23-206 – 23-219. Reserved.

DIVISION 2. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS.

Sec. 23-220. General 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 flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment 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 and all other requirements in Sec. 23-291(b). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.
(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-221. Hydraulic and hydrologic analyses.

(a) No floodplain development shall:

- (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
- (2) Cause any increase in the regional flood height due to floodplain storage area lost.

(b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of Division 8 *Amendments* are met.
(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

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 standards of Sec. 23-221 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to Division 8 *Amendments*, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.
(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-223. Chapter 30, 31, Wis. Stats. Development.

Development which requires a permit from the Department, under chs. 30 and 31, 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 floodplain zoning ordinance are made according to Division 8 *Amendments*.
(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

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 Agriculture, Trade, and Consumer Protection;

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(b) A land use permit for the campground is issued by the zoning administrator;

(c) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;

(d) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;

(e) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (d) - to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations;

(f) Only camping units that are fully licensed, if required, and ready for highway use are allowed;

(g) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;

(h) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;

(i) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;

(j) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Divisions 3, 4, or 5 for the floodplain district in which the structure is located;

(k) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and

(l) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.
(Ord 54-06, §1, 3-21-06; Ord 108-10, §1, 7-13-10; Ord 109-10, §1, 7-13-10; Ord 13-21, §1, 4-21-21)

Secs. 23-225 – 23-235. Reserved.

DIVISION 3. FLOODWAY DISTRICT (FW)

Sec. 23-236. Applicability.

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to Sec. 23-266(d).

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-237. Permitted uses.

The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- they are not prohibited by any other ordinance;
- they meet the standards in Sec. 23-238 and Sec. 23-239; and
- all permits or certificates have been issued according to Sec. 23-291.

(a) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

(b) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

(c) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of Sec. 23-238(d).

(d) Uses or structures accessory to open space uses, or classified as historic structures that comply with Sec. 23-238 and Sec. 23-239.

(e) Extraction of sand, gravel or other materials that comply with Sec. 23-238(d).

(f) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.

(g) Public utilities, streets and bridges that comply with Sec. 23-238(c).

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-238. Standards for developments in the floodway.

(a) **General.**

(1) Any development in the floodway shall comply with Division 2 and have a low flood damage potential.

(2) Applicants shall provide the following data to determine the effects of the proposal according to Sec. 23-221 and Sec. 23-291(b)(3):

- a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
- b. An analysis calculating the effects of this proposal on regional flood height.

(3) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subd. (2) above.

(b) **Structures.** Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

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- (1) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
 - (2) Shall either have the lowest floor elevated to or above the flood protection elevation shall meet all the following standards:
 - a. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
 - b. Have structural components capable of meeting all provisions of Sec. 23-238(b)(7) and;
 - c. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Sec. 23-238(b)(7).
 - (3) Must be anchored to resist flotation, collapse, and lateral movement;
 - (4) Mechanical and utility equipment must be elevated to or above the flood protection elevation; and
 - (5) Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
 - (6) For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets or exceeds the following standards:
 - a. The lowest floor must be elevated to or above the flood protection elevation;
 - b. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - c. The bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open.
 - (7) *Certification:* Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:
 - a. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
 - b. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in Sec. 23-239(d) and 23-239(e);
 - c. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
 - d. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
 - e. Placement of utilities above the flood protection elevation.
- (c) **Public utilities, streets and bridges.** Public utilities, streets and bridges may be allowed by permit, if:
- (1) Adequate floodproofing measures are provided to the flood protection elevation; and
 - (2) Construction meets the development standards of Sec. 23-221.

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(d) ***Fills or deposition of materials.*** Fills or deposition of materials may be allowed by permit, if:

- (1) The requirements of Sec. 23-221 are met;
- (2) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;
- (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (4) The fill is not classified as a solid or hazardous material.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-239. Prohibited uses.

All uses not listed as permitted uses in Sec. 23-237 are prohibited, including the following uses:

- (a) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
 - (b) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
 - (c) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
 - (d) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;
 - (e) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
 - (f) Any solid or hazardous waste disposal sites;
 - (g) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and
 - (h) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.
- (Ord 54-06, §1, 1, 3-21-06; Ord 25-12, §1, 3-7-12; Ord 13-21, §1, 4-21-21)

Secs. 23-240 – 23-250. Reserved.

DIVISION 4. FLOODFRINDGE DISTRICT (FF)

Sec. 23-251. Applicability.

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to Sec. 23-266(d).
(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-252. Permitted uses.

Any structure, land use, or development is allowed in the Floodfringe District if the standards in Sec. 23-253 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in Sec. 23-291 have been issued.
(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-253. Standards for development in the floodfringe.

Sec. 23-221 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of Division 6 *Nonconforming Uses*;

(a) **Residential uses.** Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of Division 6 *Nonconforming Uses*;

- (1) The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of Sec. 23-253(a)(2) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
- (2) The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. However, no floor of any kind is allowed below the regional flood elevation.
- (3) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (4).
- (4) In developments where existing street or sewer line elevations make compliance with subd. (3) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
 - a. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - b. The municipality has a DNR-approved emergency evacuation plan.

(b) **Accessory structures or uses.** Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(c) **Commercial uses.** Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of Sec. 23-253(a). Subject to the requirements of Sec. 23-253(e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(d) **Manufacturing and industrial uses.** Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in Sec. 23-295. Subject to the requirements of Sec. 23-253(e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(e) **Storage of materials.** Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in Supp. #100

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compliance with Sec. 23-295. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(f) **Public utilities, streets and bridges.** All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

- (1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with Sec. 23-295.
- (2) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(g) **Sewage systems.** All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to Sec. 23-295(c), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(h) **Wells.** All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to Sec. 23-295(c), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(i) **Solid waste disposal sites.** Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(j) **Deposition of materials.** Any deposited material must meet all the provisions of this ordinance.

(k) **Manufactured homes.**

- (1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
- (2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - a. have the lowest floor elevated to the flood protection elevation; and
 - b. be anchored so they do not float, collapse or move laterally during a flood.
- (3) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in Sec. 23-253(a).

(l) **Mobile recreational vehicles.** All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in Sec. 23-253(k)(2) and (3). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

(Ord 54-06, §1, 1, 3-21-06; Ord 110-10, §1, 7-13-10; Ord 25-12, §1, 3-7-12; Ord 13-21, §1, 4-21-21)

Secs. 23-254 – 23-265. Reserved.

DIVISION 5. OTHER FLOODPLAIN DISTRICTS.

Other floodplain districts may be established under the ordinance and reflected on the floodplain zoning map. These districts may include general floodplain districts and flood storage districts.

Sec. 23-266. General floodplain district (GFP).

(a) **Applicability.** The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

(b) **Permitted uses.** Pursuant to Sec. 23-266(d), it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in the Floodway (Sec. 23-237) and Floodfringe (Sec. 23-252) Districts are allowed within the General Floodplain District, according to the standards of Sec. 23-266(c), provided that all permits or certificates required under Sec. 23-291 have been issued.

(c) **Standards for development.** Division 3 applies to floodway areas, Division 4 applies to floodfringe areas. The rest of this ordinance applies to either district.

(1) In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:

- a. At or above the flood protection elevation; or
- b. Two (2) feet above the highest adjacent grade around the structure; or
- c. The depth as shown on the FIRM.

(2) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

(d) **Determining floodway and floodfringe limits.** Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

(1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.

(2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.

- a. A Hydrologic and Hydraulic Study as specified in Sec. 23-291(b)(3).
- b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.
- c. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-267. Flood storage district.

The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher

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flood elevations.

(a) ***Applicability.*** The provisions of this section apply to all areas within the Flood Storage District (FSD), as shown on the official floodplain zoning maps.

(b) ***Permitted uses.*** Any use or development which occurs in a flood storage district must meet the applicable requirements in Sec. 23-253.

(c) ***Standards for development in flood storage districts.***

- (1) Development in a flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
- (2) No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
- (3) If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as per Division 8 *Amendments* of this ordinance.
- (4) No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Secs. 23-268 – 23-280. Reserved.

DIVISION 6. NONCONFORMING USES

Sec. 23-281. General.

(a) **Applicability.** If these standards conform with s. 87.30, Stats. and ch. NR 116.15, Wis. Adm. Code and 44 CFR 59-72, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

(b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

- (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words “modification” and “addition” include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance.
- (3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 23-253(a). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the fifty percent (50%) provisions of this paragraph.
- (5) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 23-253(a).
- (6) If on a per event basis the total value of the work being done under (4) and (5) equals or exceeds fifty percent (50%) of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 23-253(a).
- (7) Except as provided in subd. (8), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds fifty percent (50%) of the structure's present equalized assessed value.

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- (8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

a. Residential Structures

1. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of Sec. 23-295(b).
2. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
3. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
5. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Sec. 23-266(c).
6. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

b. Nonresidential Structures

1. Shall meet the requirements of Sec. 23-281(b)(8)a1-6.
2. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in Sec. 23-295(a) or (b).
3. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Sec. 23-266(c).

(c) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with Sec. 23-238(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with Sec. 23-295 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of Sec. 23-281(b)(8)a if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

(Ord 54-06, §1, 1, 3-21-06; Ord 21-09, §1, 1-13-09; Ord 13-21, §1, 4-21-21)

Sec. 23-282. Floodway district.

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:

- (1) Has been granted a permit or variance which meets all ordinance requirements;
- (2) Meets the requirements of Sec. 23-281;
- (3) Shall not increase the obstruction to flood flows or regional flood height;

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- (4) Any addition to the existing structure shall be floodproofed, pursuant to Sec. 23-295, by means other than the use of fill, to the flood protection elevation; and
- (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - d. The use must be limited to parking, building access or limited storage.

(b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, Sec. 23-295(c) and ch. SPS 383, Wis. Adm. Code.

(c) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, Sec. 23-295(c) and chs. NR 811 and NR 812, Wis. Adm. Code.
(Ord 54-06, §1, 1, 3-21-06; Ord 25-12, §1, 3-7-12; Ord 13-21, §1, 4-21-21)

Sec. 23-283. Floodfringe district.

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of Sec. 23-253 except where Sec. 23-283(b) is applicable.

(b) Where compliance with the provisions of subd. (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in Sec. 23-293, may grant a variance from those provisions of subd. (a) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

- (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
- (2) Human lives are not endangered;
- (3) Public facilities, such as water or sewer, shall not be installed;
- (4) Flood depths shall not exceed two feet;
- (5) Flood velocities shall not exceed two feet per second; and
- (6) The structure shall not be used for storage of materials as described in Sec. 23-253(e).

(c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, Sec. 23-295(c) and ch. SPS 383, Wis. Adm. Code.

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(d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, Sec. 23-295(c) and ch. NR 811 and NR 812, Wis. Adm. Code.

(Ord 54-06, §1, 1, 3-21-06; Ord 2-09, §1, 1-13-09; Ord 111-10, §1, 7-13-10; Ord 25-12, §1, 3-7-12; Ord 13-21, §1, 4-21-21)

Sec. 23-284. Flood storage district.

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in Sec. 23-267(c) are met.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-285 – 23-289. Reserved.

SECTION 7. ADMINISTRATION

Sec. 23-290. Administration.

Where a zoning administrator, planning agency or a Board of Appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance. (Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-291. Zoning administrator.

(a) ***Duties and powers.*** The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

- (1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- (2) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
- (3) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
- (4) Keep records of all official actions such as:
 - a. All permits issued, inspections made, and work approved;
 - b. Documentation of certified lowest floor and regional flood elevations;
 - c. Floodproofing certificates.
 - d. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - e. All substantial damage assessment reports for floodplain structures.
 - f. List of nonconforming structures and uses.
- (5) Submit copies of the following items to the Department Regional office:
 - a. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - b. Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.
 - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (6) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
- (7) Submit copies of amendments to the FEMA Regional office.

(b) ***Land use permit.*** A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

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(1) *General information*

- a. Name and address of the applicant, property owner and contractor;
- b. Legal description, proposed use, and whether it is new construction or a modification;

(2) *Site development plan.* A site plan drawn to scale shall be submitted with the permit application form and shall contain:

- a. Location, dimensions, area and elevation of the lot;
- b. Location of the ordinary highwater mark of any abutting navigable waterways;
- c. Location of any structures with distances measured from the lot lines and street center lines;
- d. Location of any existing or proposed on-site sewage systems or private water supply systems;
- e. Location and elevation of existing or future access roads;
- f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
- g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
- h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Divisions 3 or 4 are met; and
- i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Sec. 23-221. This may include any of the information noted in Sec. 23-238(a).

(3) *Hydraulic and hydrologic duties to analyze development.* All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

a. Zone A floodplains:

1. Hydrology.

- i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

2. Hydraulic modeling. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

- i. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
- ii. Channel sections must be surveyed.
- iii. Minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.

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- iv. A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
 - v. The most current version of HEC_RAS shall be used.
 - vi. A survey of bridge and culvert openings and the top of road is required at each structure.
 - vii. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
 - viii. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
 - ix. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
3. Mapping. A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
- i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
 - ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.
- b. Zone AE Floodplains
- 1. Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
 - 2. Hydraulic model. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
 - i. Duplicate Effective Model.
The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
 - ii. Corrected Effective Model.
The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.

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- iii. Existing (Pre-Project Conditions) Model.
The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
- iv. Revised (Post-Project Conditions) Model.
The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
- v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
- vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.

3. Mapping. Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:

- i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.
- ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
- iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
- iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
- v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
- vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
- vii. Both the current and proposed floodways shall be shown on the map.
- viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(4) *Expiration.* All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.

(c) **Certificate of compliance.** No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use,

conform to the provisions of this ordinance;

- (2) Application for such certificate shall be concurrent with the application for a permit;
- (3) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- (4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of Sec. 23-295 are met.

(d) **Other permits.** Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.
(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-292. Zoning agency.

(a) The Plan Commission shall:

- (1) Oversee the functions of the office of the zoning administrator; and
- (2) Review and advise the governing body on all proposed amendments to this ordinance, maps and text.

(b) The Plan Commission shall not:

- (1) Grant variances to the terms of the ordinance in place of action by the Board of Appeals; or
- (2) Amend the text or zoning maps in place of official action by the governing body.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-293. Board of Appeals.

The Board of Appeals, created under s. 62.23(7)(e), Stats., is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the Board.

(a) **Powers and duties.** The Board of Appeals shall:

- (1) *Appeals.* Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;
- (2) *Boundary Disputes.* Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and
- (3) *Variances.* Hear and decide, upon appeal, variances from the ordinance standards.

(b) **Appeals to the Board.**

- (1) Appeals to the Board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the Board, by filing with the official whose decision is in question, and with the Board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the Board all records regarding the matter appealed.

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(2) *Notice and hearing for appeals including variances.*

a. Notice. The Board shall:

1. Fix a reasonable time for the hearing;
2. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
3. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

b. Hearing. Any party may appear in person or by agent. The Board shall:

1. Resolve boundary disputes according to Sec. 23-293(c);
2. Decide variance applications according to Sec. 23-293(d); and
3. Decide appeals of permit denials according to Sec. 23-294.

(3) *Decision*. The final decision regarding the appeal or variance application shall:

- a. Be made within a reasonable time;
- b. Be sent to the Department Regional office within 10 days of the decision;
- c. Be a written determination signed by the chairman or secretary of the Board;
- d. State the specific facts which are the basis for the Board's decision;
- e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
- f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(c) ***Boundary disputes***. The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- (1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;
- (2) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and
- (3) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to Division 8 *Amendments*.

(d) ***Variance***.

- (1) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 - a. Literal enforcement of the ordinance will cause unnecessary hardship;
 - b. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common

to adjacent lots or premises. In such case the ordinance or map must be amended;

- c. The variance is not contrary to the public interest; and
- d. The variance is consistent with the purpose of this ordinance in Sec. 23-203.

(2) In addition to the criteria in subd. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

- a. The variance shall not cause any increase in the regional flood elevation;
- b. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and
- c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

(3) A variance shall not:

- a. Grant, extend or increase any use prohibited in the zoning district;
- b. Be granted for a hardship based solely on an economic gain or loss;
- c. Be granted for a hardship which is self-created.
- d. Damage the rights or property values of other persons in the area;
- e. Allow actions without the amendments to this ordinance or map(s) required in Division 8 *Amendments*; and
- f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

(4) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-294. To review appeals of permit denials.

(a) The Zoning Agency (Sec. 23-292) or Board shall review all data related to the appeal. This may include:

- (1) Permit application data listed in Sec. 23-291(b);
- (2) Floodway/floodfringe determination data in Sec. 23-266(d);
- (3) Data listed in Sec. 23-238(a)(2) where the applicant has not submitted this information to the zoning administrator; and
- (4) Other data submitted with the application, or submitted to the Board with the appeal.

(b) For appeals of all denied permits the Board shall:

- (1) Follow the procedures of Sec. 23-293;
- (2) Consider zoning agency recommendations; and

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(3) Either uphold the denial or grant the appeal.

(c) For appeals concerning increases in regional flood elevation the Board shall:

(1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of Division 8 *Amendments*; and

(2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-295. Floodproofing standards for nonconforming structures or uses.

(a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.

(b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:

(1) Certified by a registered professional engineer or architect; or

(2) Meets or exceeds the following standards:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
- b. The bottom of all openings shall be no higher than one foot above grade; and
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(c) Floodproofing measures shall be designed, as appropriate, to:

(1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

(2) Protect structures to the flood protection elevation;

(3) Anchor structures to foundations to resist flotation and lateral movement;

(4) Minimize or eliminate infiltration of flood waters; and

(5) Minimize or eliminate discharges into flood waters.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Sec. 23-296. Public information.

(a) Place marks on structures to show the depth of inundation during the regional flood.

(b) All maps, engineering data and regulations shall be available and widely distributed.

(c) Real estate transfers should show what floodplain district any real property is in.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Secs. 23-297 – 23-303. Reserved.

DIVISION 8. AMENDMENTS.

Sec. 23-304. Amendments.

Obstructions or increases 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 Sec. 23-305.

(a) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Sec. 23-305. Any such alterations must be reviewed and approved by FEMA and the DNR.

(b) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with Sec. 23-305.
(Ord 13-21, §1, 4-21-21)

Sec. 23-305. General.

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in Sec. 23-306 below. Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

- (a) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- (b) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- (c) Any changes to any other officially adopted floodplain maps listed in Sec. 23-205(b)(2);
- (d) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- (e) Correction of discrepancies between the water surface profiles and floodplain maps;
- (f) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and
- (g) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.
(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

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Sec. 23-306. Procedures.

Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats. The petitions shall include all data required by Sec. 23-266(d) and Sec. 23-291(b). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

(a) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats.

(b) No amendments shall become effective until reviewed and approved by the Department.

(c) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.
(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Secs. 23-307 – 23-310. Reserved.

DIVISION 9. ENFORCEMENT AND PENALTIES

Sec. 23-311. Enforcement and penalties.

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not more than \$50.00 (fifty dollars), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

(Ord 54-06, §1, 1, 3-21-06; Ord 13-21, §1, 4-21-21)

Secs. 23-312 – 23-314. Reserved.

DIVISION 10. DEFINITIONS.**Sec. 23-315. Definitions.**

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word “may” is permissive, “shall” is mandatory and is not discretionary.

A Zones. Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

AH Zone. See *Area of shallow flooding*

AO Zone. See *Area of shallow flooding*

Accessory structure or use. A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

Alteration. An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

Area of shallow flooding. A designated AO, AH, AR/AO, AR/AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a 1 percent (1%) or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood. Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

Basement. Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

Building. See *Structure*.

Bulkhead line. A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.

Campground. Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

Camping unit. Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

Certificate of compliance. A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

Channel. A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

Crawlways or crawl space. An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

Deck. An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

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Department. The Wisconsin Department of Natural Resources.

Development. Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

Dryland access. A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

Encroachment. Any fill, structure, equipment, use or development in the floodway.

Federal Emergency Management Agency (FEMA). The federal agency that administers the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM). A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- The overflow or rise of inland waters;
- The rapid accumulation or runoff of surface waters from any source;
- The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
- The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

Flood frequency. The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.

Floodfringe. That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

Flood hazard boundary map. A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

Flood insurance study. A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

Floodplain. Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

Floodplain island. A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

Floodplain management. Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

Flood profile. A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

Floodproofing. Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

Flood protection elevation. An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: ***Freeboard.***)

Flood storage. Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

Floodway. The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

Freeboard. A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

Habitable structure. Any structure or portion thereof used or designed for human habitation.

Hearing notice. Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

High flood damage potential. Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure. Any structure that is either:

- Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

Increase in regional flood height. A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and

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contraction coefficients and discharge.

Land use. Any nonstructural use made of unimproved or improved real estate. (Also see *Development*.)

Lowest adjacent grade. Elevation of the lowest ground surface that touches any of the exterior walls of a building.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Maintenance. The act or process of restoring to original soundness, including redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

Manufactured home. A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle".

Mobile/manufactured home park or subdivision. A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

Mobile/manufactured home park or subdivision, existing. A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

Mobile/manufactured home park, expansion to existing. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

Mobile recreational vehicle. A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles".

Model, corrected effective. A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

Model, duplicate effective. A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

Model, effective. The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

Model, existing (pre-project). A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

Model, revised (post-project). A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

Municipality or municipal. The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

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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, adopted and made part of this ordinance, as described in Sec. 23-205(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 highwater 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 Safety and Professional Services, 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 floodplain 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 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start

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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 s. 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.

Substantial improvement. Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent (50%) of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

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 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 13-21, §1, 4-21-21)

Editor's Note: Definitions previous appeared as Sec. 23-205. This section was renumbered as Sec. 23-315 by Ord 12-21. Previous amendments: Ord 54-06, §1, 3-21-06; Ord 19-09, §1, 1-13-09; Ord 106-10, §1, 713-10.

Editor's Note: Article X of Chapter 23, Floodplain Zoning, was repealed and recreated by Ordinance 54-06, adopted by Council on March 15, 2006, published on March 20, 2006, and became effective March 21, 2006

Editor's Note: Article X of Chapter 23, Floodplain Zoning, was repealed and recreated by Ordinance 12-21, adopted by Council on April 21, 2021, published on April 26, 2021, and became effective April 27, 2021

ARTICLE XI. SHORELAND/WETLANDS REGULATIONS

Sec. 23-326. Regulations for the protection of wetlands within the shoreland.

(a) **Statutory Authority.** This article is adopted pursuant to the authorization in §62.231, Wisconsin State Statutes (2023-2024) and Chapter NR 117, Wisconsin Administrative Code (November 2024), as amended from time to time.

(b) **Definitions.** All definitions identified in Chapter NR 117, Wisconsin Administrative Code (November 2024), as amended from time to time, are hereby incorporated by reference. For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word “shall” is mandatory, not permissive. All distances unless otherwise specified, shall be measured horizontally.

- (1) **Boathouse** means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts.
- (2) **Development** means any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.
- (3) **Drainage system** means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
- (4) **Fixed houseboat** means a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spud poles attached to the bed of the waterway.
- (5) **Permit** means written authorization made by the City of Appleton to the applicant to undertake certain activities in accordance with provisions of the Municipal Code of the City of Appleton.
- (6) **Wetlands** means those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
- (7) **Wetland alteration** means any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.
- (8) **WDNR** means the Wisconsin Department of Natural Resources.

(c) **Finding of Fact and Purpose.** Uncontrolled use of the shoreland-wetlands and the pollution of navigable waters adversely affect public health, safety, convenience, and general welfare. The Wisconsin Legislature has delegated responsibility to all municipalities to:

- (1) Promote public health, safety, convenience, and general welfare;
- (2) Maintain storm and floodwater storage capacity of wetlands;
- (3) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) Protect fish, their spawning grounds, other aquatic life, and wildlife by preserving wetlands and aquatic habitat;
- (5) Prohibit certain uses detrimental to the shoreland-wetland area; and

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- (6) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling, and other earth-moving activities.

(d) ***Shoreland-wetland zoning maps.*** The following maps are hereby adopted and made part of this article:

- (1) The most recent version of the Wisconsin Wetland Inventory as depicted on the Wisconsin Department of Natural Resources (WDNR) Surface Water Data Viewer.
- (2) City of Appleton Official Shoreland Zoning District Map, effective July 23, 2014, as amended.
- (3) City of Appleton Zoning Map, effective May 22, 1994, as amended.
- (4) Flood Insurance Rate Maps adopted in subsection 23-205(b)(1)-(2), as amended.
- (5) United States Geological Survey Maps titled and dated.

(e) ***District Boundaries.*** The Shoreland-Wetland Zoning District includes all mapped wetlands in the city which:

- (1) Are five (5) acres or larger in size;
- (2) Are designated wetlands as depicted in the most recent version of the WDNR Surface Water Data Viewer or SWDV, the official record of the Wisconsin Wetland Inventory (WWI); and
- (3) Are located within the shoreland zoning district, defined as:
 - a. Within 1,000 feet of the ordinary high-water mark of a navigable lake, pond, or flowage. Lakes, ponds, or flowages in the City of Appleton shall be presumed to be navigable if they are listed in the most recent version of the WDNR' publication "Surface Water Resources of Outagamie County" or shown on U.S. Geological Survey Quadrangle maps, or other zoning base maps which have been incorporated by reference and made a part of this article; or
 - b. Within 300 feet of the ordinary high-water mark of a navigable river or stream, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this ordinance. Floodplain Insurance Rate Maps adopted in Sec. 23-326(d)(4) shall be used to determine the extent of floodplain areas.

(f) ***Director of Public Works.*** The Director of Public Works or designee is authorized to administer this article and shall have the following duties and powers:

- (1) Develop and maintain a system for issuing and keeping permits for all new construction, development, reconstruction, structural alteration or moving of buildings and structures, and for other types of development, including the construction and reconstruction of roads.
- (2) Conduct on-site inspections of approved projects to ensure compliance with this article and terms of approval, revoke permits where the conditions of a permit are violated and issue certificates of compliance.
- (3) Maintain a complete record of all proceedings before the Board of Appeals, Plan Commission, and Common Council.
- (4) Determinations of navigability and ordinary high-water mark location shall initially be made by the Director of Public Works or designee. When questions arise, the Director of Public Works or designee shall contact the appropriate district office of the WDNR for a final determination of navigability or ordinary high-water mark.
- (5) When an apparent discrepancy exists between the shoreland-wetland zoning district boundary shown on the Wisconsin Wetland Inventory as depicted on the WDNR's Surface Water Data View or SWDV and actual

field conditions at the time the maps were adopted, the Director of Public Works or designee shall contact the appropriate office of the WDNR to determine if the shoreland-wetland zoning district boundary as mapped, is in error. If WDNR concurs with the Director of Public Works or designee that a particular area was incorrectly mapped as a wetland, the Director of Public Works or designee shall have the authority to immediately direct the Zoning Administrator to grant or deny a land use or building permit in accordance with the regulations applicable to the respective zoning district.

- (6) Provide written notice to the appropriate district office of the WDNR as required by this article, including variance applications and decisions, administrative appeals for map or text interpretations to this article, and proposed amendments to map or text to this article within 10 days after the decision is made.
- (7) Maintain the Official Shoreland Zoning District Map, along with all approved map amendments.
- (8) The enforcement, issue violations, citations and penalty to any person, partnership, corporation or other legal entity that fails to comply with the provisions of this subsection shall be subject to penalty provisions as prescribed in Sec. 23-69 of this chapter. Enforcement of this subsection is prescribed in Sec. 23-69 of this chapter.
- (9) Any other duty or power necessary in the administration of this article.

(g) **Board of Appeals.** The Board of Appeals, created under §62.23(7)(e), Wisconsin State Statutes (2023-2024), as amended from time to time is hereby authorized or shall be appointed to act for the purposes of this article. The Board shall exercise the powers conferred by Wisconsin State Statutes and Sec. 23-63 and Sec. 23-67 of this chapter.

(h) **Exemptions.**

- (1) Filled Wetlands. Wetlands which are filled prior to the effective date of this article, in a manner which affects their wetland characteristics to the extent that the area can no longer be defined as wetland in Section NR 117.03, are not subject to this article.
- (2) Wetlands Landward of a Bulkhead Line. Wetlands located between the original ordinary high water mark and a bulkhead line established prior to May 7, 1982 under § 30.11, Wisconsin State Statutes, that are located on the landward side of the bulkhead line are not subject to this article.

(i) **Permitted uses in the Shoreland-Wetland Zoning District.** The following uses are permitted in the Shoreland-Wetland Zoning District subject to the provisions of Chapters 30 and 31, Wisconsin State Statutes and the provisions of the Municipal Code of the City of Appleton, state and federal laws, if applicable.

- (1) Activities and uses which do not require the issuance of a permit, and do not involve wetland alterations, such as the following:
 - a. Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
 - b. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - c. The practice of silviculture, including the planting, thinning and harvesting of timber;
 - d. The pasturing of livestock;
 - e. The cultivation of agricultural crops; and
 - f. The construction and maintenance of duck blinds.
- (2) Activities and uses which do not require the issuance of a permit and which may involve wetland alterations but only to the extent specifically provided below:

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- a. The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
 - b. The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
 - c. The construction and maintenance of fences for the pasturing of livestock, including limited filling and excavating necessary for such construction or maintenance;
 - d. The maintenance and repair of existing drainage systems to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks where possible;
 - e. The construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on pilings, including limited filling and excavating necessary for the installation of pilings;
 - f. The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in Sec. 23-326(1)(3) of this article; and
 - g. The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (3) Uses which are allowed upon the issuance of a permit which may include wetland alterations only to the extent specifically provided below:
- a. Roads. The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to allow activities and the uses permitted under Section 23-326(i) of this article, provided that:
 - 1. The road cannot, as a practical matter, be located outside the wetland;
 - 2. The road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in Sec. 23-326(1)(3) this article;
 - 3. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - 4. Road construction activities are carried out in the immediate area of the roadbed only; and
 - 5. Any wetland alteration must be necessary for the construction or maintenance of the road.
 - b. Nonresidential buildings. The construction and maintenance of nonresidential buildings provided the following conditions are met:
 - 1. The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
 - 2. The building cannot, as a practical matter, be located outside the wetland;
 - 3. The building does not exceed 500 square feet in gross floor area; and
 - 4. Only limited filling and excavating necessary to provide structural support for the building is allowed.

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- c. Public and private facilities. The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided the following conditions are met:
 - 1. Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
 - 2. Any private development allowed under this subsection shall be used exclusively for the permitted purpose;
 - 3. Construction and maintenance of roads necessary for the uses permitted under this subsection is allowed only if such construction and maintenance meets the criteria in Sec. 23-326(i)(3)a. of this article; and
 - 4. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game farms, and wildlife areas provided that they are done for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- d. Transportation and utility services. The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewerage collection lines and related facilities and the construction of railroad lines provided the following conditions are met:
 - 1. The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - 2. Only limited filling or excavating necessary for such construction or maintenance is allowed; and
 - 3. Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in Sec. 23-326(k)(3) of this article.

(j) **Prohibited uses.** Any use not listed in Sec. 23-326(i) of this article is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this article in accordance with Sec. 23-326(l) of this article.

- (1) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

(k) **Nonconforming structures and uses.** The lawful use of a building, structure or land which existed at the time this article, or an applicable amendment to this article, took effect and which is not in conformity with the provisions of this article, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions.

- (1) The shoreland-wetland provisions of this article authorized by §62.231, Wisconsin State Statutes (2023-24), as amended from time to time, shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of the shoreland-wetland provisions or of any environmental control facility in existence on May 7, 1982, related to such a structure. All other nonconforming uses and structures shall comply with the provisions of Sec. 23-42 of the Zoning Code for the City of Appleton.
- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, any future use of the building, structure or land shall conform to this article.
- (3) Any legal nonconforming use of land which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this article adopted under §62.231, Wisconsin State Statutes (2023-24), as amended from time to time, may be continued although such use does not conform to the provisions of this article. However, such nonconforming use may not be extended.

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- (4) The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of §30.121, Wisconsin State Statutes (2023-24), as amended from time to time.

(l) ***Amending shoreland-wetland zoning district regulations.*** The Common Council may alter, supplement or change the zoning district boundaries and the regulations contained in this article in accordance with the requirements of §62.23(7)(d)2, Wisconsin State Statutes (2023-24), as amended from time to time, Chapter NR 117, Wisconsin Administrative Code, and the following:

- (1) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the WDNR within 5 days of filing of the proposed amendment with the City Clerk;
- (2) All proposed text and map amendments to the shoreland-wetland zoning district regulations shall be referred to the Plan Commission, and a public hearing shall be held after Class 2 notice as required by §62.23(7)(d)2, Wisconsin State Statutes (2023-24), as amended from time to time. The appropriate district office of the WDNR shall be provided with written notice of the public hearing at least 10 days prior to such hearing.
- (3) In order to ensure that this article will remain consistent with the shoreland protection objectives of §281.31, Wisconsin State Statutes (2023-24), as amended from time to time, the Common Council may not rezone a wetland in a Shoreland-Wetland Zoning District, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:
 - a. Stormwater and floodwater storage capacity;
 - b. Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - c. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - d. Shoreline protection against soil erosion;
 - e. Fish spawning, breeding, nursery or feeding grounds;
 - f. Wildlife habitat; or
 - g. Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.
- (4) If the district office of the WDNR determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Sec. 23-326(1)(3) of this article, the WDNR shall so notify the City of its determination either prior to or during the public hearing held on the proposed amendment.
- (5) The appropriate district office of the WDNR shall be provided with:
 - a. A copy of the recommendation and report, if any, of the Plan Commission on a proposed text or map amendment within 10 days after the submission of those recommendations to the Common Council.
 - b. Written notice of the action on the proposed text or map amendment within 10 days after the action is taken.
- (6) If the WDNR notifies the Plan Commission in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Section 23-326(1)(3) of this article that the proposed amendment, if approved by the Common Council, shall contain the following provision:
 - a. “This ordinance amendment shall not become effective until more than 30 days have elapsed since written notice of the Common Council’s approval was mailed to the district office of the WDNR, as

required by Section 23-326(1)(5) of this article. If within the 30 day period the district office of the WDNR notifies the City that the WDNR intends to adopt a superseding shoreland-wetland zoning ordinance for the city as provided by § 62.231(6), Wisconsin State Statutes (2023-24), as amended from time to time, the proposed amendment shall not become effective until the ordinance adoption procedure under § 62.231(6), Wisconsin State Statutes (2023-24), as amended from time to time, is completed or otherwise terminated.”

23-327– 23-389. Reserved.

Editor’s Note: Article XI of Chapter 23, Shoreland-Wetland Zoning District Regulations, was created by Ordinance 113-25, adopted by Council on October 15, 2025, published on October 20, 2025, and became effective October 21, 2025.

ARTICLE XII. SEXUALLY-ORIENTED ESTABLISHMENTS

Sec. 23-390. Purpose.

The Common Council finds that, due to their nature, the existence of sexually-oriented establishments in the City has serious objectionable operational characteristics, such as an effect upon property values, local commerce and crime. Due to the deleterious combined effect on adjacent areas when such uses are concentrated, they should not be permitted to be located in close proximity to each other. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. Such regulations are contained in these standards. These standards are designed to protect the City's retail trade, maintain property values, prevent crime, and in general, protect and preserve the quality of the City's neighborhoods, commercial districts and the quality of urban life.

It is not the intent of this article to limit or restrict the content of communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this article to restrict or deny access by adults to materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

(Ord 213-11, §1, 9-27-11)

Sec. 23-391. General standards for sexually-oriented establishments.

(a) **Standards.** A sexually-oriented establishment may be permitted as a special use in the C-2 General Commercial District, M-1 Industrial Park District and M-2 General Industrial District provided that:

- (1) Such use shall not be located within five hundred (500) feet of any residentially zoned property;
- (2) Such use shall not be located within five hundred (500) feet of a public or private educational institution, place of worship, club, park or playground, non-profit recreational facility, child day care center or hotel/motel;
- (3) Such use shall not be located within five hundred (500) feet of an establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor;
- (4) Such use shall not be located within one thousand (1,000) feet of another sexually-oriented establishment;
- (5) No sexually-oriented establishment shall be open between the hours of 2 a.m. and 8 a.m., Monday through Friday, between the hours of 3 a.m. and 8 a.m. on Saturdays or between the hours of 3 a.m. and 12 noon on Sundays;
- (6) Any sexually-oriented establishment having available for customers, patrons or members, any booth, room or cubicle for the private viewing of any adult entertainment shall be regulated by the following with each booth, room or cubicle required to meet the following construction requirements:
 - a. Be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall;
 - b. Shall be totally accessible to and from aisles and public areas of the sexually-oriented establishment;
 - c. Shall be unobstructed by any door, lock or other control-type devices;
 - d. Have at least one (1) side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the same;
 - e. All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, non-absorbent, smooth textured and easily cleanable;
 - f. The floor must be light colored, nonabsorbent, smooth textured and easily cleanable;

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- g. The lighting level shall be a minimum of ten (10) foot candles at all times, as measured from the floor.
- (7) Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth.
 - (8) No sexually-oriented establishment shall be situated in such a manner as to allow public view of its stock in trade, advertisements, displays, promotional materials, screens, loudspeakers, sound equipment, videos, an adult motion picture theater, whether enclosed or drive-in, photographs or other forms of sexually-oriented entertainment shall be shown, seen, heard, discerned or exhibited from outside of the establishment.
 - (9) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, telephone numbers, date of employment and termination. This information on each employee shall be maintained in the register on the premises for a period of one (1) year following termination of the employee and shall be made immediately available for inspection by the Appleton Police Department and/or the Health Department of the City of Appleton.
 - (10) No portion of the exterior of an sexually-oriented establishment shall utilize or contain any flashing lights, search lights, spot lights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent specifically permitted pursuant to the Signs article as identified in this ordinance.
 - (11) An applicant shall not reside with a person who has been denied a permit by the City to operate a sexually-oriented establishment within the preceding twelve (12) months, or shall not reside with a person whose permit to operate an sexually-oriented establishment has been revoked within the preceding twelve (12) months.
 - (12) An applicant must be eighteen (18) years of age or older.
 - (13) Further standards may be established as part of the special use permit process on a case-by-case basis for sexually-oriented establishment.

(b) *Application of Distance Standards:* The distances provided in this subsection shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the lot upon which the proposed use is to be located, to the nearest point of the zoning district boundary line or the lot from which the proposed use is to be separated.
(Ord 213-11, §1, 9-27-11)

Sec. 23-392. Standard conditions of approval.

- (a) In addition to complying with §23-66 Special use permits of this ordinance the following shall also apply:
- (1) The premises to be used for the sexually-oriented establishment shall be inspected and found to be in compliance with all applicable laws and ordinances by the City of Appleton's Health Department, Fire Department and Inspections Supervisor.
 - (2) The applicant shall, within thirty (30) days after the issuance of the Special Use Permit referred to herein, deliver to the Community Development Director, or designee, a list containing the names and addresses of all employees. The applicant shall update the list within thirty (30) days of any change or addition of employees. This list, or update, shall be signed, under oath, by the applicant.
 - (3) The fact that a person possesses other types of state or county permits does not exempt that individual from the requirement of obtaining a City-issued sexually-oriented establishment Special Use Permit.
 - (4) An applicant shall pay any unpaid City of Appleton taxes, fees, fines, or penalties assessed against or imposed upon them in relation to a sexually-oriented establishment prior to the issuance of a Special Use Permit.

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- (5) The Special Use Permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually-oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually-oriented business so that it may be easily read at any time.
- (6) An applicant of the proposed establishment shall not be in violation of, or not in compliance with, any of the provisions of this zoning ordinance including any stipulations or conditions of approval of the Special Use Permit.
- (7) An applicant shall not transfer a sexually-oriented entertainment permit to another person, corporation or entity, nor shall an applicant operate a sexually-oriented establishment under the authority of a permit any place other than the address designated in the application.

(Ord 213-11, §1, 9-27-11)

Sec. 23-393. Application requirements.

(a) In addition to §23-66 Special Use Permits of this ordinance the following shall be provided:

- (1) An application for a Special Use Permit must be made on a form provided by the Community Development Department. The application must be accompanied by a site plan pursuant to §23-570, Site plan review.
- (2) If a person who wishes to operate a sexually-oriented establishment is an individual, he/she must sign the application for a Special Use Permit as the applicant. If a person who wishes to operate a sexually-oriented establishment is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a Special Use Permit as applicant.
- (3) An applicant shall provide information reasonably necessary for issuance of the permit or shall not falsely answer a question or request for information on the application form.

(4) The Special Use Permit fee required by this ordinance shall be paid at time of application.

(Ord 213-11, §1, 9-27-11)

23-394. Enforcement.

(a) In addition to this section, §23-69 Enforcement of this ordinance shall apply.

(b) Nothing in this subsection is intended to authorize, legalize or permit the establishment, operation or maintenance of any business, building or use which violates any City ordinance or statute of the State of Wisconsin regarding public nuisances, sexual conduct, lewdness or obscene or harmful matter in the exhibition or public display thereof.

(c) A person shall be deemed to have committed a violation of this ordinance if he/she operates a sexually-oriented establishment without a valid Special Use Permit issued by the City for the particular type of business.

(d) **Public nuisance.** Any violation of the standards set forth in subsection (b) above is declared to be a public nuisance pursuant to §12-30(19) of the Appleton Municipal Code.

(e) **Inspection.**

- (1) An applicant shall permit representatives of the City of Appleton Community Development Department, Police Department, the Fire Department, the Division of Inspections, or other City departments or agencies to inspect the premises of a sexually-oriented establishment for the purpose of insuring compliance with the law, at any time it is occupied or open for business.
- (2) A person who operates a sexually-oriented business or his/her agent or employee commits a violation of this ordinance if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

(Ord 213-11, §1, 9-27-11)

Supp. #100

Secs. 23-394 – 23-419. Reserved.

ARTICLE XIII. RESERVED.

Editor's Note: Ord 90-23, adopted October 4, 2023 and effective October 10, 2023 repealed Article XIII of Chapter 23, Wireless telecommunications facilities.

Secs. 23-420 – 23-499. Reserved.

ARTICLE XIV. SIGNS*

DIVISION 1. INTRODUCTORY INFORMATION

Sec. 23-500. Purpose.

Because signs obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation, there exists a need to uniformly regulate signs in the City of Appleton. The purpose of this Article is to regulate the size, illumination, movement, materials, location, height, and condition of all signs placed on private property for exterior observation, thus ensuring the protection of property values, the character of neighborhoods, the creation of a convenient, attractive and harmonious community, protection against destruction of or encroachment on historic convenience to citizens and encouraging economic development.

This Article allows adequate communication through signage while encouraging aesthetic quality in the design, location, size, and purpose of all signs. This Article must be interpreted in a manner consistent with the First Amendment guarantee of free speech. This Article provides comprehensive and balanced sign regulations intended to avoid excessive levels of visual clutter or distraction that are potentially harmful to traffic and pedestrian safety, property values, business opportunities, and community appearance; ensure that signs are well-constructed and maintained and expressive of the identity of individual activities and the community as a whole; and provide a procedure for fair and consistent enforcement and to implement the applicable policies and objectives as identified in the Appleton Comprehensive Plan.

This Article does not regulate every form and instance of visual communication that may be displayed anywhere within the jurisdictional limits of the City of Appleton. Rather, these regulations are intended to regulate those forms and instances that are most likely to meaningfully affect one or more of the purposes set forth above. These regulations do not entirely eliminate all of the harms that may be created by the installation and display of signs. Rather, they strike an appropriate balance that preserves ample channels of communication by means of visual display while still reducing and mitigating the extent of the harms caused by signs. These regulations are not intended to and do not apply to signs erected, maintained or otherwise posted, owned or leased by the State of Wisconsin, Outagamie County, Calumet County, Winnebago County, the federal government, or the City of Appleton. The inclusion of “government” in describing some signs does not intend to subject the government to regulation, but instead helps illuminate the type of sign that falls within the immunities of the government from regulation.

(Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-501. No discrimination against non-commercial signs or speech.

The owner of any sign which is otherwise allowed under this Article may substitute noncommercial copy in lieu of any other commercial or noncommercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial copy over any other noncommercial copy. This provision prevails over any more specific provision to the contrary. This provision does not create a right to increase the total amount of signage in terms of size and number on a parcel or within a development or allow the exchange of an off-premises commercial message in place of an on-premises commercial message.

(Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-502. Severability.

If any portion of this Article or any regulation contained herein is held to be invalid or unconstitutional by a court of competent jurisdiction, it is the City’s specific legislative intent that said portion or regulation is to be deemed severed from this Article and should in no way affect or diminish the validity of the remainder of Article or any other sign regulation set forth herein.

(Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-503. Reserved.

DIVISION 2. DEFINITIONS**Sec. 23-504. Definitions and interpretation.**

Words and phrases used in this Article shall have the meanings set forth in this section. The definitions identified in this section shall apply to this Article and shall prevail with respect to signs in the event any inconsistency exists between these definitions and the definitions set forth in any other part of the Appleton Municipal Code. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this ordinance.

Abandoned sign means a sign located on a lot that contains any land use discontinued for more than a twelve (12) month period.

Animated means the movement of any light used in conjunction with a sign such as motion picture, blinking, flashing, or changing degree of intensity of any light movement other than continuous light emission.

Area of sign means the area of the largest single sign face within a perimeter formed by the outside shape, including any frame that forms an integral part of the display. This would not include the necessary supports or uprights of the sign. If the sign consists of more than one (1) section or module, all areas are totaled. Any writing, representation, emblem, logo, symbol or other display that has no background or is irregular in shape shall be computed based on squares or rectangles which enclose the extreme outer limits of the advertising message, announcement or decoration.

Athletic scoreboard means a sign accessory to an athletic playing field and/or its associated fences and walls.

Automobile, RV, truck, cycle, boat sales and dealerships signs means a ground sign located on a property with a valid/lawful certificate of occupancy for automobile, RV, truck, cycle, boat sales and dealerships as defined in Section 23-22.

Awning sign means a sign with a rigid-framed, roof-like structure attached to a wall running parallel to the exterior wall of a building and composed of a covering or non-rigid materials and/or fabric, vinyl or canvas that may be either permanent or retractable.

Banner means a temporary sign of lightweight fabric, vinyl, polypropylene, polyester mesh, cloth, plastic, or similar flexible material that can be mounted to a structure with cord, rope, cable, hardware or similar method or that may be supported by stakes or poles in the ground.

Beacon means any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same lot as the light source; also, any light with one (1) or more beams that rotate or move.

Billboard. See off-premises sign definition.

Building marker sign means any sign that is engraved into a masonry surface or made of bronze or other permanent material.

Changeable copy sign means a permanent sign, whether electronic or manual, where copy changes. See **Electronic message board**.

Commercial message means any sign with wording, logo, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service, profession, commodity, event, person, institution, or other commercial activity or otherwise contains commercial speech.

Commercial speech means any message proposing a commercial transaction or related to the economic interests of the speaker and its intended audience. Commercial speech does not include false or misleading information, or advertises or promotes an illegal product or activity.

Construction sign means a temporary sign on a lot that has a valid building permit issued by the City of Appleton.

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Copy means the wording or graphic content on a sign surface.

Directory sign means a wall or ground sign placed adjacent to the publicly used entrance to the building.

Display time means the amount of time words, symbols, figures, or images are displayed on an electronic message board.

Driveway sign means a ground sign located adjacent to the driveway as defined in Section 23-22.

Educational institution sign means a permanent ground or wall sign located on a property with a valid/lawful certification of occupancy permit for educational institution as defined in Section 23-22.

Electronic message board means a permanent wall or ground sign capable of displaying words, symbols, figures, or images that can be electronically changed by remote or automatic means. Such signs shall include the modes of operations pursuant to Sec. 23-530 of this Article.

Electric sign means any sign containing electrical wiring which is attached or intended to be attached to an electrical energy source.

Flag means a sign made of fabric, bunting, or similar material, attached along one side to a single pole. The pole is either freestanding or attached to a building.

Flashing sign means a sign or part thereof, operated so as to create flashing; change in light intensity, color or copy or intermittent light impulses more frequent than one every ten seconds and further provided that electronic message boards as defined herein shall not constitute flashing signs. It is further provided that a sign which creates intermittent light impulses which convey time of day and/or temperature only shall not constitute a flashing sign.

Frame means a complete, static display screen on an electronic message board sign.

Freeway means Interstate Highway 41 and State Highway 441.

Freeway-oriented on-premises sign means any on premises sign whose property abuts a freeway.

Frontage means that boundary of a lot that abuts a dedicated public street. The public right-of-way may include frontage roads.

Ghost sign means a hand-painted sign that remains from an earlier time that was in existence on or before January 22, 2000, and is still present on the wall.

Governmental Sign means any sign that is:

- (a) constructed, placed, or maintained by the federal, state, or local government; or
- (b) constructed, placed, or maintained on a federal, state, or local government building, structure, or property;
- (c) required to be constructed, placed or maintained by the federal, state or local government either directly; or to enforce a property owner's rights.

Governmental signs include: signs erected by, or on behalf of, a governmental unit, including legal notices, traffic signs, or other similar regulatory devices, building address numbers, directional signs, wayfinding signs, warnings at railroad crossings, and other instructional or regulatory signs pertaining to health hazards, parking, swimming, dumping, and such emergency or non-advertising signs as may be approved by the Traffic Engineer for safety purposes or other signs approved by the Common Council.

Ground sign means any sign supported by structures or supports placed on or anchored in the ground and independent from any building or other structure.

Height of sign or sign height means the vertical distance measured from the normal grade to the highest point of the sign.

Historic marker signs means a sign located on or within a historical structure, site, or district pursuant to Article XVII. of this chapter or approved by the Wisconsin Historic Society pursuant to the Wisconsin Historical Markers Program.

Home occupation sign means a wall sign located on a property that has a valid/lawful home occupation pursuant to §23-45 of this chapter.

Hospital sign means a permanent sign located on a property with a valid/lawful certification of occupancy for hospital use as defined in Section 23-22.

Inspections Supervisor means the City of Appleton Inspections Supervisor or designee.

Interior Signs means a sign located inside an exterior window, walls, or door of any building, mall, courtyard, stadium (including athletic scoreboards and fences), or enclosed lobby, when such signing is intended for interior viewing only.

Marquee means any permanent, roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Menu board means a structure associated with a drive-through window or walk-up service window.

Mural means a picture, illustration, design, representation and/or copy painted or drawn directly onto the surface of an exterior building wall. Definition of Mural does not include Public art and/or murals installed or located, and approved in accordance with the City of Appleton Public Arts Policy.

Neighborhood and subdivision identification signs means a wall or ground sign that is located at the entrances of a neighborhood or subdivision that is officially designated as a registered neighborhood by the city or approved pursuant to the City of Appleton Land Division and Subdivision Ordinance.

Noncommercial message means any message which is not a commercial message as defined herein.

Noncommercial speech mean any speech which is not commercial speech as defined herein.

Nonconforming sign means any sign that does not conform to the requirements of this Article.

Normal grade shall be construed to be the newly established grade after construction, exclusive of any filling, berming, molding or excavating solely for the purpose of locating the sign.

Off-premises sign means a sign that directs attention to a business, profession, commodity, service, or entertainment conducted, sold, or offered at a location other than where the sign is located. This definition shall include, but is not limited to, billboards, posters, panels, painted bulletins, and similar advertising displays. An off-premises sign meets any one of the following criteria and includes only commercial messages:

- A permanent structure sign which is used for the display of off-premises commercial messages;
- A permanent structure that constitutes a principal, separate, or secondary use, as opposed to an accessory use, of the parcel on which it is located; or
- An outdoor sign used as advertising for hire, e.g., on which display space is made available to parties other than the owner or operator of the sign or occupant of the parcel (not including those who rent space from the sign owner, when such space is on the same parcel or is the same development as the sign), in exchange for a rent, fee, or other consideration.

On-premises sign means any sign identifying or advertising persons, entities, activities, business goods, products, facilities or services located on the lot where the sign is installed and maintained.

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Painted wall sign means a picture, illustration, design, representation and/or copy painted or drawn directly onto the surface of an exterior building wall.

Party wall means a wall without openings located on a lot line between adjacent buildings.

Person means any individual, association, company, corporation, firm, organization, or partnership, singular or plural, of any kind.

Places of worship, community living arrangements serving 16 or more persons, assisted living and retirement home serving 16 or more person, residential care apartment complex serving 16 or more persons and nursing home sign means a permanent ground or wall sign located on a property with valid/lawful certificate of occupancy permit for place of worship, community living arrangement serving 16 or more persons, assisted living and retirement home serving 16 or more persons, residential care apartment complex serving 16 or more persons and nursing home as defined in Section 23-22.

Principal building means the building in which is conducted the principal use of the lot on which it is located. Lots with multiple principal uses may have multiple principal buildings, but garages and other clear accessory uses shall not be considered principal buildings.

Projecting sign means a sign, normally double-faced, which is attached to a structure or building perpendicular to the wall and extending more than six (6) inches. The area of projecting signs is calculated on one (1) face only.

Projection sign means a temporary sign created by projecting light, images, or video onto a building, structure, or surface.

Public art means artwork that is installed or located, and approved in accordance with the City of Appleton Public Arts Policy.

Public institutional identity signs means a sign located on a lot that has a valid/lawful certificate of occupancy permit to any public institutional use(s) occupying the premises as defined in Section 23-22.

Real Estate Marketing Sign means a temporary ground sign with a valid building permit from the City of Appleton on the lot.

Real Estate Sign means a temporary wall or ground sign located on a lot where real property is for sale or rent.

Right-of-way is all public property used or intended for use as a travelway and the public property that is adjacent to the travelway.

Roof sign means a sign erected upon, against or above a roof and extending above the highest point of the roof. If the sign does not extend above the highest point of the roof and is single-faced, it is a wall sign.

Sandwich board sign means a temporary sign that is self-supported and moveable, typically A-shaped with two visible sides.

Setback means the required distance a sign must be located from a lot line, easement, right-of-way line, adjacent building or other feature as indicated in this Article.

Sign means any device, fixture, placard, or structure that uses any writing, image, representation, emblem, logo, symbol or other display illuminated or non-illuminated to advertise, announce the purpose of, or identify the purpose of a person or entity to attract attention, or to communicate information of any kind to the public, visible from any public way or public street. For the purpose of removal, signs shall also include all sign structures as well as the sign itself. Signs located entirely within an enclosed building and not capable of being read from a outside of the building shall not be considered a sign.

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1. Athletic scoreboards, flags, holiday decorations, menu boards, streamers, pennants, umbrellas, balloons and inflatable figures and anything else not containing copy, used for advertising purposes or otherwise meeting the definition of a sign are not considered signs.

Sign structure means any structure or material that supports, has supported, or is capable of supporting or helping maintain a sign in a stationary position, including decorative covers.

Street frontage means the distance for which a lot line of a lot adjoins a street, from one (1) lot line intersecting said street to the furthest distant lot line intersecting the same street. Corner or double frontage lots will have more than one (1) street frontage.

Suspended sign means a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

Swinging sign means a sign installed on an arm, mast, or spar that is not permanently fastened to an adjacent wall or upright pole.

Temporary sign means a sign intended to display either a commercial or non-commercial message for a limited time and is not permanently mounted or does not have footings. A banner, pennant, poster or advertising display constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appears to be intended or is determined by the code official to be displayed for a limited period of time (rather than permanently attached to the ground or a structure).

Transition means visual effect used on an electronic message board to change from one message, symbol, figure, and/or image to another.

Vehicle Sign means a sign on a licensed and operable truck, bus, trailer, or other vehicle.

Wall area means the vertical exterior wall surface of a building, not including the area of a party wall, consisting of the solid portion that forms the sides of the building envelope, including walls, doors and window area, that is not the roof or floor.

Wall sign means any sign attached parallel to, and within six (6) inches of, a wall or erected and confined within the limits of an outside wall of any building. The sign is supported by such building.

Wave banner means a free-standing temporary sign typically constructed of a lightweight vinyl, polypropylene, polyester mesh, fabric, cloth, plastic, or similar flexible material and mounted on a flexible pole driven in the ground with an attached pennant that is vertically elongated and attached to the pole.

Wayfinding signage means signs that are part of a City-sponsored and coordinated program for the purpose of directing pedestrian and vehicular traffic to local destinations.

Window sign means a permanent or temporary sign that is placed inside a window and is visible from the exterior. A window sign does not supersede the transparent purpose of the window.

Yard sign means a temporary, on-premises sign that is either free-standing or mounted on one (1) or two (2) stakes or posts.
(Ord 2-15, §1, 1-27-15; Ord 34-15, §1, 3-24-15; Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

DIVISION 3. GENERAL PROVISIONS

Sec. 23-505. Prohibited signs.

All signs not expressly permitted or exempt under this article are prohibited in any location in the City. Prohibited signs include, but are not limited to:

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(a) Signs that employ intermittent or flashing illumination, animation, motion picture, laser projection, sound emission (except electronic message boards and projection signs as defined in this Article).

(b) Beacons.

(c) Off-premises signs.

(d) Roof signs.

(e) Signs marked, tacked, or otherwise affixed to trees or other vegetation.

(f) Signs containing statements, words, or pictures of an obscene or pornographic nature.

(g) Signs which purport to be, or are an imitation of, or resemble an official traffic sign or signal, or which bear the words “stop”, “caution”, “warning”, or similar words and/or colors normally associated with official signs.

(h) Swinging and alternating signs.

(Ord 3-15, §1, 1-27-15; Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-506. Legal, nonconforming signs.

(a) *Existing Nonconforming Signs.*

(1) Signs lawfully existing at the time of the adoption or amendment of this chapter or located in an area annexed to the city of Appleton may be continued although the use, size, or location does not conform to the provisions of this chapter. However, it shall be deemed a nonconforming sign, and the provisions of this chapter shall apply to specific nonconforming rights.

(2) Any nonconforming sign hereafter relocated, moved, reconstructed, extended, enlarged, changed in shape or use (not including changing the copy), altered, or modified shall be made to comply with the provisions of this chapter.

(3) Maintenance of nonconforming signs including changing the sign face of existing advertising areas, replacing light bulbs or wiring, and painting is permitted.

(4) If damaged or destroyed, a nonconforming sign may be replaced within one year after the calamity to the size, location, and use that it had immediately before the damage or destruction occurred, if the damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

(5) A conforming sign does not become nonconforming due to City, County or State acquisition of right-of-way according to §23-42(e) of this chapter.

(Ord 34-10, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-507. Signs not requiring a permit.

(a) The following signs are allowed in all zoning districts without the need for a sign permit, unless otherwise stated in this Article. Such signs shall not count as part of the maximum permitted sign area, maximum number of signs per lot, or building, but shall comply with sign setbacks, height and vision corner requirements, unless otherwise stated in this Article.

(1) *Banners and Wave Banners.*

Subject to the following requirement:

a. Sign area: Single and two-family residences shall not exceed thirty-two (32) square feet.

(2) ***Building marker sign.***

Subject to the following requirement:

- a. Sign area: Shall not exceed four (4) square feet.

(3) ***Construction signs.***

Subject to the following requirements:

- a. Sign number: One (1) construction sign per street frontage is allowed.
- b. Sign location: This sign shall be placed on the lot that the building permit was issued by the City of Appleton.
- c. Sign timeframe: Such signs shall not be erected prior to the beginning of work for which a valid building or demolition permit has been issued, and shall be removed within ten (10) days of completion of the work or the expiration of the permit, whichever is sooner.
- d. Sign area: Single and two-family residences shall not exceed sixteen (16) square feet.
- e. Sign area: Commercial, public institutional, industrial, multi-family, traditional or planned developments shall not exceed ninety-six (96) square feet.

(4) ***Driveway signs.***

Subject to the following requirements:

- a. Sign area: Shall not exceed six (6) square feet.
- b. Sign number and placement: No more than one (1) driveway sign is permitted per each side of driveway. Must be located within the ten (10) feet of the nearest lot line.
- c. Driveway signs are prohibited for single and two-family residences.

(5) ***Directory signs.***

Subject to the following requirements:

- a. Sign area: Shall not exceed thirty-two (32) square feet.
- b. Sign height: If a ground sign, maximum eight (8) feet.
- c. Sign placement: shall be placed adjacent to publicly used entrance to the building.
- d. Sign number: One (1) per building unless the building has more than one entrance or direct frontage on more than one street, in which case two (2) signs are allowed.
- e. Directory signs are prohibited in single and two-family residences.

(6) ***Governmental signs.***

(7) ***Historic marker signs.***

Subject to the following requirements:

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- a. Sign placement: A sign may be a ground sign or placed flat against a building, monument stone, or other permanent surface.
- b. Sign size: Shall not exceed twenty-seven (27) square feet in area or shall not exceed the size limitations established by the State Historic Markers Program Administered by the Wisconsin State Historical Society, whichever is greater.

(8) *Home occupation signs.*

Subject to the following requirements:

- a. Sign number: One (1) wall sign.
- b. Illuminance: The sign associated with an otherwise lawful home occupation may not be an illuminated wall sign.
- c. Sign size: Shall not exceed two (2) square feet.

(9) *Projection Sign.*

Subject to the following requirements:

- a. Sign Placement: If projecting across right-of-way, the projection must be a minimum of 15' above street grade at all points over the right-of-way. No height restriction if projection is included in an approved special event permit or street occupancy permit and the right-of-way is closed during projection.
- b. If the temporary projection sign is located on a nearby property and projects over a right of way onto another property, the light trespass ordinance will not apply when all the affected property owners consent to the temporary projection sign.

(10) *Public Institutional identity signs.*

Subject to the following requirements:

- a. Sign number: One (1) sign.
- b. Sign size: Shall not exceed sixty (60) square feet.
- c. Sign setback: This sign must be located a minimum of ten (10) feet from the right-of-way line.

(11) *Neighborhood and Subdivision identification signs.*

Subject to the following requirements:

- a. Sign location: Sign must be located at entrances of neighborhoods or subdivisions on private property and comply with setbacks set forth.
- b. Sign size and height: Shall not exceed eight (8) feet in height and forty-eight (48) square feet per sign face, and meet all other design standards in Division 4.

(12) *Real estate signs.*

Subject to the following requirements:

- a. Sign number: One (1) real estate sign per street frontage of a lot.

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- b. Sign area: Shall not exceed eight (8) square feet for residential districts, thirty-two (32) square feet for public institutional and commercial districts, or sixty-four (64) square feet for industrial districts.
- c. Sign Illumination: Sign cannot be illuminated.
- d. Sign removal: Real estate signs shall be removed within fifteen (15) days after the sale, rental, or lease has been accomplished.

(13) *Yard signs.*

Subject to the following requirements:

- a. Sign number: Each lot shall be limited to five (5) yard signs.
- b. Sign Area: Each sign shall not exceed sixteen (16) square feet (16 sq ft).
- c. Sign Height: No yard sign may be higher than four feet (4 ft).
- d. Cumulative Sign Area: The cumulative total yard sign area for any lot is sixty (60) square feet.
- e. Exception: Paragraphs (a – d) do not apply to on-premises signs placed on residential property pursuant to Wis. Stat. § 12.04 (2023-24, and as amended from time to time). To ensure traffic and pedestrian safety, signs:
 - 1. May not be larger than eleven square feet (11 sq ft) in area.
 - 2. May not have any electrical, mechanical, or audio auxiliary.
- f. Subparagraph (e)(i) does not apply to a sign which is affixed to a permanent structure and does not extend beyond the perimeter of the structure, if the sign does not obstruct a window, door, fire escape, ventilation shaft or other area which is required by an applicable building code to remain unobstructed.

(14) *Window signs.*

Subject to the following requirements:

- a. Sign ratio: Temporary window signs shall not exceed fifty percent (50%) of the gross window area of any given wall or ten percent (10%) of the glass on any door.
- b. Sign area: The square footage of permanent window signs shall be included in the maximum allowable square footage of wall sign pursuant to Sec. 23-523(c).

(15) *Vehicle signs.*

(Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Secs. 23-508 – 23-521. Reserved.

DIVISION 4. DESIGN STANDARDS

Sec. 23-522. Number of signs.

(a) **One (1) ground sign.** One (1) permanent ground sign is permitted for each lot unless specified elsewhere in Section 23-529 and this Article.

(b) **Two (2) ground signs.** Two (2) permanent ground signs may be permitted if a parcel has a second street frontage subject to the following regulations:

- (1) For corner lots, each street frontage must be at least two hundred (200) feet before two (2) signs are allowed;
- (2) Double frontage lots must have at least three hundred (300) feet of lot depth.
- (3) Maximum size of the two (2) signs are one hundred eighteen (118) square feet for the primary sign and thirty-two (32) square feet for the secondary sign.
- (4) In no case will two (2) ground signs be allowed on the same street frontage for the same business or parcel.

(c) **Temporary signs.** One (1) temporary sign per street frontage is allowed within the minimum principal building front yard setback requirement, unless otherwise specified and provided the setback and clearance requirements of this Article are complied with.

(1) There is no limit to the number of temporary signs on the remainder of the property.
(Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-523. Sign face calculation.

(a) **Ground signs.** The maximum area of a permanent ground sign shall not exceed one hundred fifty (150) square feet per sign face unless specified elsewhere in Section 23-529 and this Article.

(b) **Multiple-faced signage.** The surface area of a sign shall be calculated only on the basis of adding together the area of the sign face(s) that can be read by one (1) viewer at a time. Where two (2) identical sign faces are both faces cannot be read by any one (1) viewer simultaneously, only one (1) of the faces shall be calculated for purposes of determining sign surface area.

(c) **Wall sign calculation.** For purposes of maximum area for wall signs, this calculation shall include awning, marquee, permanent window and projecting signs.

(1) In the P-I, C-O, C-1, C-2, and CBD zoning districts, the maximum area of wall signage shall be calculated as follows:

- a. For each building wall, thirty-five percent (35%) of the building wall area or three hundred fifty (350) square feet whichever is less.

(2) In the M-1 and M-2 zoning districts, the maximum area of wall signage shall be calculated as ten percent (10%) of each building wall.

(d) **Changeable copy signs (manual and electronic message boards).** The maximum area cannot exceed forty-eight (48) square feet, and shall counts towards the total allowable ground or wall area.

(e) **Sandwich board signs.** The maximum height is three and one-half (3½) feet, maximum width is two and one-half (2½) feet, and maximum leg support height is six (6) inches.
(Ord 4-15, §1, 1-27-15; Ord 34-10, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-524. Ground sign height.

(a) **Total height.** The height of a ground sign shall not exceed twenty-eight (28) feet in height unless specified elsewhere in Section 23-529 and this Article.

(b) **Computation of height.** Sign height shall be computed as the distance from the base of the sign or sign structure at normal grade to the top of the highest attached component of the sign. Where the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a street or the grade of the land at the principal entrance to the principal building, whichever is lower.
(Ord 112-25, §1, 10-01-25)

Sec. 23-525. Setback and clearance.

(a) **Signs located in the right-of-way.** The closest point of a sign shall not encroach into the public right-of-way, including public sidewalks and terraces unless a street occupancy permit is obtained. Approval of this permit must be obtained from the Public Works Department. Signs in the right-of-way may have different dimensional standards.

(b) **Side lot line.** A sign shall be located no closer than five (5) feet from the side lot line.

(c) **Within fifteen (15) feet of right-of-way and driveway.** A ground or temporary sign, any part of which is closer than fifteen (15) feet to the right-of-way and driveway, shall have a minimum vertical distance of ten (10) feet between the bottom of the sign and the grade at the right-of-way line or shall not be more than three (3) feet in height above the grade at the right-of-way line unless specified elsewhere in Section 23-529 and this Article.

(d) **Intersections.** Any ground or temporary sign within twenty-five (25) feet of an intersection shall maintain a minimum vertical distance between the bottom of the sign and the grade at the right-of-way line of ten (10) feet or shall be not more than three (3) feet in height above grade.

(e) **Projecting signs.** Projecting signs shall maintain a minimum vertical distance between the bottom of the sign and the normal grade of eight (8) feet. The maximum height between the top of the sign and the normal grade shall not exceed sixteen (16) feet.

(f) **Parking area/driveway clearance.** Any sign located over a parking area or driveway shall have a minimum vertical clearance of fourteen (14) feet.

(g) **Electrical lines.** All signs shall be so located so as to avoid any contact with above or underground electrical and communication lines.
(Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-527. Awning and marquee signs.

For this section, awning includes marquees unless otherwise specified.

(a) The sign copy area shall not be larger than the maximum wall sign area restrictions in Sec. 23-523(c). The copy area shall count as part of the maximum wall sign area calculation.

(b) An awning sign shall meet the following conditions:

- (1) An awning shall not extend more than five (5) feet from the face of a building.
- (2) The support structure shall not extend into the right-of-way without obtaining a street occupancy permit.
- (3) Minimum clearance for an awning sign shall be eight feet (8') from the lowest edge of the awning material to the normal grade.

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- (4) The valance shall not exceed nine (9) inches, and letters on the valance shall not exceed six (6) inches in height.

- (5) If illuminated, a light source shall meet all national and local electrical codes.

(Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-528. Sign lighting.

Signage may be internally lighted or may have external illumination mounted on the sign, building, or ground. However, no external light source shall be positioned as to interfere or be seen by vehicular traffic or adjacent residential uses.

(Ord 112-25, §1, 10-01-25)

Sec. 23-529. Design standard and exceptions.

(a) **Hospital sign.** The following design standard exceptions are permitted for AG, R-1A, R-1B, R-1C, R-2, R-3, and NC zoned lots:

- (1) Ground sign: One (1) ground sign for every five hundred (500) feet of frontage subject to size, height and setback restrictions in accordance with Division 4 of this Article.
- (2) Driveway sign: One (1) driveway sign shall be permitted per side of driveway at each driveway entrance and not exceed seventy (70) square feet in area. All height and setback restrictions in accordance with Division 4 of this Article shall be complied with.
- (3) Directory signs: One (1) directory sign shall be permitted at each entrance door to the hospital or clinic, a ground and wall signs shall not exceed forty (40) square feet in area.
- (4) Sign illuminance: All hospital related signs may be lighted for nighttime identification.

(b) **41 and 441 freeway exceptions.** The following ground sign design standard exceptions for P-I, C-O, C-1, C-2, M-1, and M-2 zoned lots apply to freeway-oriented on-premises signs:

- (1) A ground sign may exceed twenty-eight (28) feet in height by two (2) feet for each additional foot the sign is set back from a minimum of ten (10) feet from the freeway right-of-way. No ground sign shall exceed sixty (60) feet in height above the abutting freeway's centerline grade.
- (2) A ground sign may exceed one hundred fifty (150) square feet in area by ten (10) square feet for each additional foot the sign is set back from a minimum of ten (10) feet from the freeway right of-way. No ground sign shall exceed two hundred (200) square feet in area per sign face.
- (3) If a single parcel exceeds nine (9) acres, a second ground sign not exceeding twenty-eight (28) feet in height and one hundred fifty (150) square feet in size shall be allowed within the front yard opposite the freeway provided the setback and clearance requirements of this Article are complied with.

(c) **Places of worship, community living arrangement serving 16 or more persons, assisted living and retirement home serving 16 or more persons, residential care apartment complex serving 16 or more persons and nursing home signs.** The following design standard exceptions are permitted for AG, R-1A, R-1B, R-1C, R-2, R-3, and NC zoned lots:

- (1) Ground sign: One (1) ground sign not to exceed sixteen (16) feet in height and forty-eight (48) square feet per sign face for each street frontage as calculated for multiple-faced signage pursuant to Sec. 23-523(b).
- (2) Wall Sign: One (1) wall sign will also be allowed per street frontage subject to design standards pursuant to Division 4.

(d) **Educational institution signs.** The following design standard exceptions are permitted for AG, R-1A, R-1B, R-1C, R-2, R-3, and NC zoned lot:

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- (1) Number of wall signs: One (1) wall sign will also be allowed per street frontage subject to design standards pursuant to Division 4
- (2) A substitute for the one (1) wall sign may be a changeable copy sign, attached to the exterior wall of the school building, not to exceed forty-eight (48) square feet in area.
- (3) Number of ground signs: One (1) ground sign or one (1) changeable copy sign affixed to the ground as calculated for multiple-faced signage pursuant to Sec. 23-523(b), provided a changeable copy sign does not exist as a wall sign.
- (4) Ground sign placement: A twenty (20) feet minimum setback from the public right-of-way.
- (5) Ground sign height: Maximum: Fifteen (15) feet in height.
- (6) Ground sign area: Maximum: Forty-eight (48) square feet per sign face.

(e) ***Automobile, RV, truck, cycle, boat sales and dealerships signs.*** The following design standard exceptions are permitted:

- (1) Ground sign number and area: Dealerships selling new and/or used vehicles shall be allowed one (1) ground sign for each fifty thousand (50,000) square feet of hard-surfaced designated for the outdoor display of vehicles for sale.

(f) ***Real estate marketing sign.*** The following design standard exceptions are permitted for real estate marketing sign:

- (1) Number of ground signs: One (1) ground sign per street frontage.
- (2) Ground sign area: Maximum eighty (80) square feet in area.
- (3) Such permit will be issued for one (1) calendar year and may be renewed for one (1) additional calendar year.

(g) ***Ghost Sign.*** The following design standard exceptions are permitted:

- (1) Ghost signs that existed on a building wall prior to January 22, 2000, as on file with the Inspections Division, still present on the wall, are exempt from these requirements and deemed conforming. Ghost signs may be maintained, restored and repainted but no size alterations, new information or images may be added to the existing sign. Prior to a permit being issued for restoration of a ghost sign, documentation of the sign's existence shall be provided to the Inspections Supervisor. This may include photographs or permits originally issued for the sign.

(Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-530. Electronic message boards.

- (a) Minimum display (static) time: Eight (8) seconds.
- (b) Transition time between messages and/or message frames: Three (3) seconds or less.
- (c) The following modes of operation shall be allowed:
 - (1) Static: Signs which include no animation or effects simulating animation.
 - (2) Fade: Signs where static messages are changed by means of varying light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases intensity to the point of legibility.

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- (3) Dissolve: Signs where static messages are changed by means of varying light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneous to the gradual appearance and legibility of the subsequent message.
- (4) Travel: Signs where the message is changed by the apparent horizontal movement of the letters or graphic elements of the message.
- (5) Scrolling: Signs where the message is changed by the apparent vertical movement of the letters or graphic elements of the message.

(d) All electronic message boards must be equipped with automatic light sensors to adjust sign brightness and shall comply with light trespass requirements of Sec. 23-53(g) of this chapter.
(Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-531. Murals.

- (a) Murals are permitted in the following zoning districts:

(1) C-1, C-2, C-O, CBD, P-I, M-1 and M-2.

(b) *Permit requirements.* A permit must be applied for and received pursuant to Sec. 23-540 of this Article. In addition, all provisions of Division 5 of the Article shall apply to murals.
(Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Secs. 23-532 – 23-539. Reserved.

DIVISION 5. ADMINISTRATIVE PROCEDURES

Sec. 23-540. Sign permit.

(a) **Permit required.** A permit from the Inspections Supervisor shall be required for any person to erect, place, replace, move, establish, paint, construct, install, convert, substantially alter, rebuild, enlarge, remodel, relocate, or illuminate any sign, unless exempted under Sec. 23-507. Repainting, routinely maintaining, or changing the message on a sign will not be considered a substantial alteration and will not require a permit.

(b) **Permit fee.** The fee for sign permits shall be established by the Common Council and on file in the Office of the City Clerk. Permit fees shall increase to three (3) times the amount if a permit is applied for after the work is started.

(c) **Permit application.** Before construction of any sign requiring a permit, an application must be filed with the Inspections Supervisor. Applications for a sign permit shall include a set of mandatory submittals as listed in this section. In addition, optional submittals may be required by the Inspections Supervisor if deemed necessary due to the character of the particular proposal under consideration. Applications will not be processed until all required submittals have been provided to the Inspections Supervisor. All applications shall be submitted upon a fully completed application form and shall be accompanied by payment of the applicable fee to defray the cost of reviewing and processing the application.

(d) Mandatory submittals for a sign permit.

- (1) Every applicant for a sign permit shall submit an application form as prescribed by the Inspections Supervisor
- (2) The application form shall be fully completed and contain the name and/or signature of the applicant.
- (3) Electrical signs are required to be listed. On the sign permit, state if the sign is to be electrical and listed.
- (4) The depiction showing the elevation of the proposed sign(s) needs to contain the following information:
 - a. Maximum dimensions of the sign(s) including dimensions of the supports, total height, and normal grade to bottom of sign.
 - b. The materials of which the sign's structural supports and all other elements are constructed.
 - c. Structural supports or visible methods of attaching the sign with dimensions to include the total height of the sign.
 - d. Calculations showing the structure meets the requirements of this section for wind pressure load.
 - e. If required, the Inspections Supervisor may require plans, specifications and calculations be signed and sealed by a Wisconsin registered architect or engineer.
- (5) A scaled drawing, showing the location and dimensions of the sign being applied for, along with the sign's relation to lot lines, streets (with identified names), any existing signs, and structures on the premises.

(Ord 86-06, §1, 7-11-06; Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-541. Denial of sign permit.

If a sign permit is denied, the applicant can, within ten (10) days, request in writing the reasons for denial. The Inspections Supervisor shall then prepare a brief written statement of the reasons for denial.

(Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-542. Variances and appeals.

(a) **Appeals.** Any aggrieved person adversely affected by the denial of a permit by the Inspections Supervisor may appeal such denial to the Board of Appeals pursuant to Sec. 23-67 of this Chapter provided the appeal is submitted in writing to the Inspections Supervisor in ten (10) calendar days after the receipt of their decision.

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(b) **Variances.** Variances to any provisions within this Article shall follow Sec. 23-67 of this chapter. (Ord 121-05, §1, 10-25-05; Ord 87-06, §1, 7-11-06; Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-543. Reserved.

This section deleted with Ord 34-18, §1, 4-10-18.

Sec. 23-544. Indemnification of the city for sign installation and maintenance.

All persons engaged in the business of installing or maintaining signs involving the erection, alteration, relocation, or maintenance of a sign within or near public right-of-way or public property shall agree to indemnify, defend, and hold harmless the City or its officers, agents, and employees from any and all claims. (Ord 112-25, §1, 10-01-25)

Sec. 23-545. Reserved.

This section deleted with Ord 34-18, §1, 4-10-18.

Sec. 23-546. Construction specifications.

(a) All signs shall comply with the provisions of Chapter 4 of this Municipal Code, the provisions of the National Electrical Code as amended, and the additional construction standards set forth in this section where applicable.

(b) All ground structures shall be self-supporting and permanently attached to sufficient foundations based on the height and size of sign.

(c) Electric service to ground signs shall be concealed.

(d) All signs, except those attached flat against the wall of the building, shall be constructed to withstand wind loads of thirty (30) pounds per square foot on the largest face of the sign and structure.

(e) No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs shall be anchored to prevent any lateral movement that could cause wear on supporting members or connections. (Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-547. Maintenance required; abandoned signs.

(a) **Maintenance and repair.** All signs and murals shall be maintained in a safe, legible and good condition.

- (1) **Safety.** All signs shall be maintained to the same structural standards by which they were approved or, in the case of nonconforming signs and murals, the standard by which they would have otherwise been approved. All metal parts which are subject to rust or corrosion shall be painted at all times, all anchors and other fastenings shall be maintained in a secure and functioning condition capable of sustaining the loads for which they were designed.
- (2) **Legibility.** All signs shall be maintained in a legible condition (except when a weathered or natural surface is intended). Painted signs and murals shall be repainted at such times as the deterioration of the paint results in illegibility or disfiguration.
- (3) **Condition.** All materials that comprise the sign face shall be replaced if broken. All electrical components, switches, lamps, relays, fuses and similar devices shall be maintained in good working order. Faded, torn, frayed, ripped, dirty, stained, or discolored materials shall be replaced.

(b) ***Discontinued or abandoned signs.***

- (1) If any sign is discontinued or abandoned for a period of at least six (6) consecutive months in a twelve (12) month period, such sign shall be considered a public nuisance affecting or endangering surrounding property values and will be considered to be detrimental to the public health, safety and general welfare of the community.
- (2) All discontinued or abandoned signs and sign messages shall be removed by the owner or lessee of the premises when the business is no longer conducted there, except if any period of involuntary discontinuance occurs during the temporary closing of a street for road repair. If the owner or lessee fails to remove the sign, the Inspections Supervisor shall give the owner sixty (60) days written notice to remove the sign.
- (3) The Inspections Supervisor, may take any appropriate legal action necessary to obtain compliance, including issuing citations. Removal of the sign in question includes the removal of the sign structure and sign cabinet.

(Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23-548. Payment for sign removal.

When it becomes necessary for the Inspections Supervisor to remove or cause to be removed or taken down, a defective, unsafe, or dangerous sign, the cost thereof shall be placed on the tax roll as a special charge and become a lien against the benefited property, unless paid sooner.

(Ord 112-25, §1, 10-01-25; Ord 112-25, §1, 10-01-25)

Sec. 23-549. Penalty.

Any person who shall violate or cause to be violated any provisions of this section shall, upon conviction thereof, forfeit not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), together with the costs of prosecution. Each day a violation exists, or continues, shall constitute a separate offense.

(Ord 112-25, §1, 10-01-25)

Secs. 23-550 – 23-559. Reserved.

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DIVISION 6. SIGNS ALLOWED BY ZONING DISTRICTS

Sec. 23-560. Reserved.

(Ord 89-06, §1, 7-11-06; Ord 34-18, §1, 4-10-18; Ord 112-25, §1, 10-01-25)

Sec. 23- 561. Table 3. Allowed and Prohibited Signs by Type and Zoning District.

Include, but are not limited to, the following:

Sign Type	AG	R-1A, R-1B, R-1C & R-2	R-3, NC	P-I & C-O	C-1 & C-2	CBD	M-1	M-2
Ground	A ^a	A ^a	A ^a	P	P	P	P	P
Awning	X	X	X	P	P	P	P	P
Building Marker	A	A	A	A	A	A	A	A
Ghost	P	P	P	P	P	P	P	P
Marquee	X	X	X	P	P	P	P	P
Projecting	X	X	X	P	P	P	P	P
Roof	X	X	X	X	X	X	X	X
Suspended	X	X	X	P	P	P	P	P
Swinging	X	X	X	X	X	X	X	X
Wall	A ^a	A ^a	A ^a	P	P	P	P	P
Window	A	A	A	A	A	A	A	A
Animated, flashing illumination, motion picture, laser projection, or sound emission	X	X	X	X	X	X	X	X
Banners and Wave Banners	A	A	A	A	A	A	A	A
Beacons	X	X	X	X	X	X	X	X
Changeable Copy (manual and electronic message board)	X	X	X	P	P	P	P	P
Construction	A	A	A	A	A	A	A	A
Driveway	A	X	A	A	A	A	A	A
Directory	A	X	A	A	A	A	A	A
Governmental	A	A	A	A	A	A	A	A
Historic Marker	A	A	A	A	A	A	A	A
Home Occupation	A	A	A	A	A	A	A	A
Interior	A	A	A	A	A	A	A	A
Neighborhood and Subdivision Identity	A	A	A	A	A	A	A	A
Off-Premises	X	X	X	X	X	X	X	X

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Sign Type	AG	R-1A, R-1B, R-1C & R-2	R-3, NC	P-I & C-O	C-1 & C-2	CBD	M-1	M-2
Yard	A	A	A	A	A	A	A	A
Real Estate Marketing	P	P	P	P	P	P	P	P
Mural	X	X	X	P	P	P	P	P
Painted	X	X	X	P	P	P	P	P
Public Institutional Identity	A	A	A	A	A	A	A	A
Real Estate	A	A	A	A	A	A	A	A
Sandwich Board	X	X	X	P	P	P	P	P
Vehicle	A	A	A	A	A	A	A	A

A – Allowed without a permit (§23-507).

P – Permit required.

X – Prohibited sign (§23-505).

A – Ground and wall signs are allowed only as identified in §23-507 and §23-529.

Secs. 23-562 – 23-569. Reserved.

Editor’s Note: Chapter 14 – Signs was repealed by Ord 9-00, published 1-22-00. New ‘Sign Code’ was created by Ord 10-00, published 1-22-00.

Editor’s Note: Art. XIV, Signs, was repealed and recreated by Ord 34-18, adopted by the Common Council on April 4, 2018 and becoming effective April 10, 2018.

Editor’s Note: Art. XIV, Signs, was repealed and recreated by Ord 112-25, adopted by the Common Council on October 1, 2025 and becoming effective October 6, 2025.

ARTICLE XV. SITE PLAN REVIEW AND APPROVAL

Sec. 23-570. Site plan review and approval.

(a) ***Purpose and intent.*** A site plan review of certain new construction, rehabilitation of buildings, additions to structures, related site work and landscape development is required in order to further promote the safe and efficient use of land and to further enhance the value of property in the City. The site plan review process is intended to help ensure that newly developed properties, expanded structures or redeveloped properties are compatible with adjacent development and safety, traffic, overcrowding and environmental problems are minimized to the extent possible.

The site plan review requirements of this section are designed to ensure the orderly and harmonious development of property in the City in a manner that shall:

- (1) Promote the most beneficial relationship between adjacent land uses.
- (2) Facilitate efficient and safe circulation of traffic both on the site and as it interfaces with the public right-of-way and adjacent properties.
- (3) Permit development to a level commensurate with the availability and capacity of public facilities and services.
- (4) Encourage adequate provision for surface and subsurface drainage.
- (5) Provide appropriate screening of parking, truck loading, refuse containers, mechanical equipment and outdoor storage areas from adjacent residential districts and public rights-of-way.

(b) ***No minor site plan or site plan review is required.***

(1) ***Change in existing building or structure:***

When the gross floor area of the existing building, structure or use, except for parking lots or parking spaces is . . .	And the proposed gross floor area of the addition or expansion of the existing building, structure or use, except for parking lots or parking spaces is . . .
0-10,000 square feet	Less than 1,000 square feet
10,001-25,000 square feet	Less than 2,500 square feet
25,001-50,000 square feet	Less than 5,000 square feet
50,001 square feet and over	Less than 7,500 square feet

- a. While no minor site plan or site plan review is required for the above addition or expansions, the addition or expansion is still subject to all applicable provisions of this chapter including but not limited to: lot coverage, setbacks, building height, parking, loading, signage and lighting.
- b. Prior to the issuance of a permit, persons not required to submit a minor site plan or site plan for the above referenced addition or expansions pursuant to this section shall submit all proposed plans and specifications to the Inspection Division along with the completed building permit application. The Inspections Division shall coordinate the review of such plans and specifications, if applicable, with other City staff. After the submittal and acceptance of a complete building permit application, and after notification to other City staff, the proposed plans and specifications shall be reviewed for compliance with all applicable provisions of this chapter and other Municipal Code provisions. Thereafter, the permit shall be approved, approved with conditions or denied with rationale within the review timeframe identified in the Building Code.

(2) ***Maintenance, overlay, resurfacing of an existing off-street parking lot and loading area.***

- a. While no minor site plan or site plan review is required for maintenance, overlay and resurfacing of an existing off-street parking lot and loading area, the maintenance, overlay or resurfacing activity is still subject to all applicable provisions of this chapter.
- b. Off-street parking lot and loading area maintenance (patching). Fifteen percent (15%) or less than the total square foot area of an existing off-street parking lot and/or loading area is allowed to be patched per calendar year without submittal of a minor site plan or site plan.
- c. Prior to the issuance of a permit, persons not required to submit a minor site plan or site plan for maintenance, overlay or resurfacing of an off-street parking lot and loading area pursuant to this section shall submit all proposed plans and specifications to the Inspection Division along with the completed permit application. The Inspections Division shall coordinate the review of such plans and specifications, if applicable, with other City staff. After the submittal and acceptance of a complete building permit application, and after notification to other City staff, the proposed plans and specifications shall be reviewed for compliance with all applicable provisions of this chapter and other Municipal Code provisions. Thereafter, the permit shall be approved, approved with conditions or denied with rationale within the review timeframe identified in the Building Code.

(Ord 235-11, §1, 12-27-11; Ord 131-12, §1, 12-11-12)

(c) ***Minor site plan review and site plan review.*** In order to minimize submission requirements and expedite final approval for certain projects, there shall be two (2) types of site plan review: minor and major.

Minor site plan review shall be subject to review and approval by the Community Development Director and will require only that information identified in §23-570(g), Minor site plan required information, as deemed necessary by the Community Development Director to make an informed decision.

Site plan review shall be subject to the review and approval of the Community Development Director pursuant to ***all*** submission requirements of this section.

(1) ***Development subject to minor site plan review.***

- a. Accessory buildings and/or structures, not including off-street parking lots or loading areas, that are 2,500 square feet or greater in size; except when associated with one-(1) or two-(2) family dwellings, unless when required per Certified Survey Map, Subdivision Plat, or the like.
- b. Personal wireless facilities as identified in §23-422(b)(1)-(3).
- c. Construction, reconstruction, rehabilitation and expansion of off-street parking lots and loading areas that consist of less than twenty (20) parking spaces or loading spaces.

(Ord 236-11, §1, 12-27-11)

(2) ***Development subject to site plan review.***

- a. The following new principal buildings, uses, building additions, or structures in any zoning district; except for one-(1) and two-(2) family dwellings or accessory buildings, structures, or uses when associated with or located within one-(1) and two-(2) family dwellings, unless required per Certified Survey Map, Subdivision Plat, or the like:
 - 1. Any new principal buildings or structures.
 - 2. Additions to existing principal buildings, structures or uses except single and two (2) family dwellings and accessory buildings, structures, or uses as established in the table below:

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When the gross floor area of the existing building, structure or use, except for parking lots or parking spaces is . . .	And the proposed gross floor area of the addition or expansion of the existing building, structure or use except for parking lots or parking spaces is . . .
0-10,000 square feet	1,000 square feet or greater
10,001-25,000 square feet	2,500 square feet or greater
25,001-50,000 square feet	5,000 square feet or greater
50,001 square feet and over	7,500 square feet or greater

3. Construction, reconstruction, rehabilitation and/or expansion of off-street parking lots and loading areas that consist of twenty (20) or more parking spaces or loading spaces.
4. Off-street parking lot and loading area reconstruction (patching). Reconstruction (patching) of off-street parking lots and loading areas that affects greater than fifteen percent (15%) of the total square foot area of an existing off-street parking lot and/or loading area per calendar year.
5. Mobile Service Support Structures and Facilities and Mobile Service Support Structures and Facilities Substantial modification (Class I Collocation) pursuant to Sec. 23-66(h)(22).

(Ord 237-11, §1, 12-27-11; Ord 116-23, §1, 10-10-23)

(d) **Authority.** The Community Development Director is hereby charged with the duty of performing site plan review and granting site plan approval for minor site plans and site plans.

(e) **Procedure.** Whenever any property owner or individual having a contractual interest proposes to develop/redevelop any tract or parcel of land where site plan review is required, that person shall submit to the Community Development Director a request for minor site plans or site plan approval.

- (1) **Presubmittal meeting.** To ensure the correct submission of a minor site plan or site plan and to identify the requirements for a complete application, applicants shall attend a presubmittal meeting with the City Community Development staff prior to submitting an application for site plan review. The applicant will discuss with staff the submission requirements for minor site plan and site plan review. The Community Development Director shall have the authority to waive the presubmittal meeting, if necessary.
- (2) **Submission of application.** All required information shall be submitted to the Community Development Director for review and processing. Within fifteen (15) business days after the submittal and acceptance of a complete application, and after notification to the Alderperson of the appropriate district and in consultation with other City officials, the Community Development Director shall, in a written decision, state the findings of the Site Plan Review Committee. Upon approval, approval with modifications or conditional approval, a building permit may be issued.
- (3) **Request of additional information.** If in the judgment of the reviewing authority, the site plan application does not contain sufficient information to enable it to properly discharge its responsibilities, the reviewing authority may request additional information from the applicant. In that event, the fifteen (15) business day period referred to above shall be suspended pending the receipt of all information requested.
- (4) **Issuance of Building Permit.** No building permit shall be issued by the City until site plan approval has been granted as provided in this section, unless otherwise authorized by the Director of the Department of Public Works.

(Ord 171-11, §1, 8-9-11)

(f) **Fees and structure.** Fees for site plan review shall be established by the City to cover the cost of this review. This fee may include passing along review costs of consultants or agencies that may be requested for review of site plans under unique circumstances such as traffic impact studies or stormwater management plans.

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(g) **Minor site plan required information.** Minor Site Plans which are submitted for review shall be drawn to an appropriate scale on sheets of uniform size, recommended at 11"x17" or a previously approved site plan may be used and submitted. A total of five (5) complete sets shall be submitted to the Community Development Director.

- (1) All Minor Site Plans shall include as a minimum all of the information as required on a form provided by the Department of Community Development.
- (2) The Community Development Director may require additional information or may waive submission requirements as deemed necessary for thorough and efficient review.

(h) **Site plan required information.** Plans which are submitted for review shall be drawn to an appropriate scale on sheets of uniform size, recommended at 24" x 36". A total of five (5) complete folded sets shall be submitted to the Community Development Director.

- (1) All Site Plans shall include, as a minimum, all of the information as required on a form provided by the Department of Community Development.
- (2) The Community Development Director may require additional information or may waive submission requirements as deemed necessary for thorough and efficient review.

(i) **Scope of review.** The Department of Community Development, when evaluating minor site plans or site plans, will review:

- (1) The relationship of the site plan to adopted land use plans and policies.
- (2) Parking layout so as to:
 - a. Minimize dangerous traffic movements.
 - b. Achieve efficient traffic flow in accordance with standards in the Institute of Traffic Engineers Transportation and Traffic Engineering Handbook.
 - c. Provide for the optimum number of parking spaces, while maintaining City design standards.
 - d. Provide for pedestrian safety.
- (3) Provisions for surface and subsurface drainage and for connections to water and sewer lines, so not to overload existing public utility lines nor increase the danger of erosion, flooding, landslide or other endangerment of adjacent or surrounding properties.
- (4) Landscaping, so as to:
 - a. Maintain existing mature trees and shrubs to the maximum extent practicable. Where practical, the property owner shall make every effort to preserve and retain existing trees and vegetation on the site when designing for the development or redevelopment of the site during design, construction and after construction.
 - b. Buffer adjacent incompatible uses.
 - c. Screen unsightly activities from public view.
 - d. Break up large expanses of asphalt and buildings with plant material.
 - e. Provide an aesthetically pleasing landscaping design.
 - f. Provide plant materials and landscaping designs that can withstand the City's climate and the microclimate on the property.

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- (5) Location of principal structures, accessory structures, lighting, freestanding signs, refuse containers, mechanical equipment, etc. so that their location and proportion does not impede safe and efficient traffic flow or adversely impact the development of adjacent property or the character of the surrounding neighborhood.
- (6) All electrical, telephone and cable lines shall be placed underground whenever practical.
- (7) Compliance with this chapter, the subdivision regulations, the stormwater management ordinance, erosion control ordinance and stormwater utility of the City of Appleton.

(j) **Validity of approval, expiration and revisions to site plan.** A site plan shall become effective upon obtaining certification of approval by the Community Development Director on the minor site plan or site plan application and the signature of the Director on the approved plans (revised if necessary).

The approval of any site plan required by this section shall remain valid for one (1) year after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this article, “actual construction” shall mean that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property or stockpiling of materials on the site shall not constitute actual construction.

An approved site plan shall remain in effect until it is supplanted by a new site plan or is deemed null and void as identified above. A revision to a site plan may be requested by submitting the changes in writing or on a copy of the approved site plan to the Community Development Director. The Community Development Director may approve, approve with conditions, deny the requested revision(s) or determine that a new site plan is needed.

Cases that require an extension of time by the applicant can be submitted to the Community Development Director, in writing, for consideration. In no case, however, shall an extension of time exceed one (1) year.

(k) **Appeal.** If the Community Development Director denies the application for a site plan or approves the site plan with conditions, the applicant may appeal the decision to the Plan Commission. A notice of appeal must be filed with the Community Development Director no later than fifteen (15) days after receipt by the applicant of the decision of the Community Development Director. Failure by an applicant to file an appeal in accordance with the foregoing provisions shall be deemed to constitute a withdrawal of the application for a site plan.

The Plan Commission shall act as promptly as practical on any appeal taken in connection with the proposed site plan. The Plan Commission shall approve, approve with conditions or disapprove the site plan by action taken by a majority of the Plan Commission present at any meeting at which a quorum is present. If the Plan Commission approves the site plan, a building permit may then be issued, provided that all other requirements of all other applicable City codes and ordinances are satisfied.

(l) **Violation.** Construction or other activities contrary to the approved site plan, or in the absence of an approved plan, shall be a violation of this section.

(Ord 61-94, §5, 5-18-94; Ord 52-95, §1, 4-19-95; Ord 69-96, §1, 8-7-96; Ord 106-96, §1a, 11-6-96; Ord 121-05, §1, 10-25-05; Ord 167-07, §1, 12-25-07; Ord 235-11, §1, 12-27-11; Ord 237-11, §1, 12-27-11; Ord 55-20, §1, 3-24-20; Ord 116-23, §1, 10-10-23)

Secs. 23-571 – 23-600. Reserved.

ARTICLE XVI. LANDSCAPING AND SCREENING

Sec. 23-601. Landscaping and screening standards.

(a) **Purpose.** The landscaping and screening requirements specified in this section are intended to:

- (1) Foster aesthetically pleasing development which will protect and enhance the appearance, character, health, safety and welfare of the community; and
- (2) To increase the compatibility of adjacent uses, by minimizing adverse impacts of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusions and other objectionable views, activities or impacts to adjacent or surrounding uses.

(b) **Applicability.** A landscape plan shall be required for all exterior construction and development activity, including the expansion of existing buildings, structures and parking lots, except construction of detached single-family and two-family dwellings and their accessory structures. The landscape plan shall be drawn in conformance with the requirements specified in this section.

(c) **Authority.** The Community Development Director is hereby charged with the duty of performing landscape plan review and granting landscape plan approval prior to issuance of a building permit.

Landscape plans for special use permits and planned developments shall also be reviewed and approved by the Plan Commission and Common Council.

(d) **Approval procedure.** Whenever any property owner or individual having a contractual interest proposes to develop, redevelop or expand a building, structure, or off-street parking lot on any tract or parcel of land where landscape plan review is required, that person shall submit to the Community Development Director a request for landscape plan approval.

All required information shall be submitted to the Community Development Director for review and processing. Within thirty (30) days after submittal, the Community Development Director, after notification to the alderperson of the appropriate district and in consultation with other City officials, shall approve, approve with modifications, conditionally approve or deny the request. If, in the judgment of the reviewing authority, the landscape plan does not contain sufficient information to enable it to properly discharge its responsibilities, the reviewing authority may request additional information from the applicant. In that event, the thirty (30) day period referred to above shall be suspended pending the receipt of all information requested.

The Community Development Director may seek professional advice from a registered landscape architect or licensed nurseryman in the review of any submitted landscape or screening plan. The cost of such consultation shall be passed on to the applicant.

Any applicant aggrieved by a decision to deny a permit may appeal as set out in §23-68, Administrative appeals.

No building permit shall be issued by the City until landscape plan approval has been granted as provided in this chapter.

(e) **Required information.** All landscape plans submitted for approval shall contain or have attached the following information:

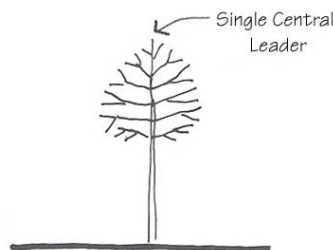
- (1) The location and dimensions of all existing and proposed structures, building entrances, parking lots and drives, rights-of-way, sidewalks, bicycle paths, ground mounted signs, refuse disposal areas, bicycle parking areas, fences, freestanding electrical equipment, recreational facilities and other freestanding structural features.
- (2) In the required landscape plan, state, at planting and at maturity, the location, quantity, size and name (including common and botanical names) of all proposed plant materials and any other information to fully describe the plant material. The location, size and type of existing plant material shall simply be identified.

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- (3) The location of all existing trees over six (6) inches in diameter.
- (4) The location and size of existing structures and plant materials on adjacent property within the required yard of that adjacent property.
- (5) Existing and proposed grading of the site, including proposed berming (indicating contours at one (1) foot intervals), spot elevations for high and low points, the flow line of drainage swales and grading features such as retaining walls, etc.
- (6) Specification of the type and boundaries of all proposed ground cover.
- (7) Elevations, including dimensions and materials, of all fences proposed for construction on the site.

(f) **Design criteria.** Landscape plans shall be prepared, evaluated and approved based on design criteria as identified below:

- (1) Landscaping, at a minimum, shall reflect the character of the property and of adjacent properties.
- (2) Any landscaping located within the front setback, in a required vision corner or within ten (10) feet of a private driveway (§23-50(g), Vision corner), shall have the following restrictions:
 - a. Shrubs shall be maintained at a height of no greater than three (3) feet.
 - b. Trees must have a clearance from the ground to the bottom of the first branch of a minimum of six (6) feet.
- (3) Side yard screening located within ten (10) feet of the street right-of-way or private driveway must not exceed three (3) feet in height. For other side and rear yard screening requirements, see §23-50(g), Vision corner.
- (4) The mature spread and overhang of plantings shall not obstruct pedestrian use of walkways or vehicular use of drives or off-street parking spaces.
- (5) All shade trees shall have a minimum trunk size of two and one-half (2½) inches in diameter upon installation as measured at six (6) inches above the established ground level. Shade trees shall be specimen grade with a single central leader.

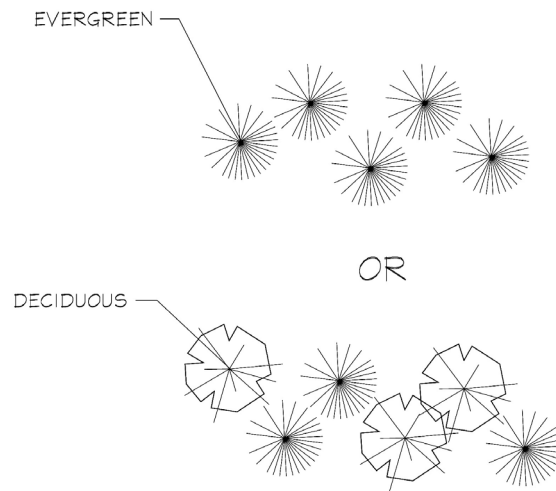


- (6) Trees and plant materials used in landscaping and screening shall conform to the standards of the American Association of Nurserymen and shall have passed any inspection required under state regulations.
- (7) Detention/retention basins and ponds shall be landscaped. Such landscaping may include shade and ornamental trees, grasses, evergreens, shrubbery, hedges or other suitable planting materials and used in a manner that controls siltation and erosion.
- (8) Trees to be maintained on and adjacent to the property shall be protected during construction by placing a barrier beyond the dripline of the tree canopy.

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- (9) New plantings shall not be allowed to shade an existing solar panel receptor on an adjacent property.
- (10) The scale and nature of landscaping materials shall be appropriate to the size of buildings and structures in the project, as well as complement the surrounding neighborhood.
- (11) Plant material shall be selected for its form, texture, color, and maintenance and with consideration for its ultimate size at maturity and its adaptability to site conditions.
- (12) Shrubs and hedges used for screening purposes shall be installed in a staggered pattern and shall be at least twenty-four (24) inches in height at the time of planting. The plantings shall be designed to provide an effective, dense screen within two (2) years after the date of planting. The height at installation of the planting shall be measured from the level of the surface of the plant base at the edge closest to the screening.

STAGGERED PLANTINGS



- (13) At maturity, trees shall be maintained so there is a seven (7) foot underclearance when over off-street parking spaces, off-street loading spaces and drive aisles, and a ten (10) foot underclearance when over a public right-of-way to meet Crime Prevention Through Environmental Design (CPTED) standards. Trees shall be planted as far from the public sidewalk as possible.
- (14) Plant material shall be placed intermittently against long expanses of building walls, fences and other barriers to achieve a softening effect of hard building lines.
- (15) Earthen berms and existing topography shall be incorporated into the landscape treatment of a site. Berms shall conform to the following standards:
 - a. The maximum side slope of any berm shall be three horizontal to one vertical (3:1) and the design shall be reviewed by the Community Development Director to ensure that proper drainage, erosion prevention and control practices have been utilized.
 - b. Berms and earth mounds shall be designed with physical variations in height and alignment throughout their length.
 - c. Adequate ground cover shall be used and maintained to prevent erosion of the earth mound.
- (16) Plantings or an enclosure shall screen service structures such as mechanical equipment, utility box pads and pedestals, trash containers and other enclosures.

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- (17) Plantings around the base of ground signs is required. A minimum area of total sign face area of one (1) side of a sign shall be landscaped at the base of the sign.
- (18) Existing plant material shall, wherever practical, be incorporated into the landscape treatment of a site.
- (19) Where utilities are to be installed within an existing root zone area, augering under the roots rather than trenching shall be used. Augering at a depth of four (4) feet is recommended.
- (20) Planting beds shall be mulched with bark chips, or other similar natural quality landscaping materials. Decorative stone may be use in conjunction with natural mulch upon approval by the Community Development Director.
- (21) When walls or fences are used to fulfill screening requirements, they shall be detailed on the required plan. They are to be constructed of weatherproof materials. This includes pressure treating or painting of lumber if it is not redwood or cedar and using aluminum or galvanized hardware. Chain link fences with tubular privacy slats may be permitted to satisfy screening requirements if approved by the Community Development Director.

Any wall or fence used for screening shall be constructed so that the finished, or most visually appealing side of the wall or fence, is facing the adjacent property. Any wall or fence not used for screening purposes shall be regulated in §23-44, Fences and walls, of this zoning ordinance.

- (22) When screening service structures, the following regulations shall be observed:

- a. Service structures shall include, but not be limited to: propane tanks, trash containers, electrical transformers, utility vaults which extend above the ground; ground mounted utility equipment, transformer boxes and other equipment or elements providing service to a building or a site. The screening height shall be based upon the tallest point of the structure(s) being buffered.
- b. A continuous staggered planting of evergreens, an alternating board on board fence or a chain link fence with tubular privacy slats, shall enclose any service structure on all sides, unless such structure must be frequently moved or accessed, in which case screening material shall be established to allow access to the structure.
- c. Whenever screening material is placed around any trash containers or waste collection unit that is emptied or removed mechanically on a regular basis. The plant material shall be at a sufficient distance from the enclosure to prevent possible damage to the screening when the container is moved or emptied.

- (23) As landscaping is a site-specific design element, a waiver may be requested from the Community Development Director.

(g) **Parking lot landscaping.** All parking lots shall be landscaped and screened in accordance with the provisions in §23-172, Off-street parking and loading standards.

(h) **Maintenance.**

- (1) **Responsibility.** The owner of the premises shall be responsible for the maintenance, repair and replacement of all landscaping materials and barriers, including refuse disposal areas, as may be required by the provisions of this chapter. The owner or developer must provide a maintenance plan which indicates how the established buffer and landscaped areas will be maintained.
- (2) **Landscaping materials.** All landscaping materials shall be installed and maintained to accepted nursery practices. All plant material shall be maintained in good condition and shall be kept free of refuse and debris so as to present a healthy, neat and orderly appearance. All unhealthy or dead plant material shall be replaced at the next planting period.

- (3) **Fences and walls.** Fences, privacy slats, walls and other barriers shall be maintained in good repair.
- (4) **No disturbance.** Once a buffer has been approved by the Community Development Director and established by the owner, it may not be used, disturbed or altered for any purpose without review and approval of a new landscape plan submitted by the applicant.

(i) **Alternative compliance landscape plan.** An alternative compliance landscape plan may be approved by the Community Development Director, upon request, if an applicant demonstrates that the intent of this section can be more effectively met, in whole or in part, through alternative means. If approved, an alternative compliance landscape plan shall be substituted, in whole or in part, for a landscape plan meeting the express terms of this section. Alternative compliance is not a departure, variance or a waiver. The proposed solution must meet or exceed otherwise applicable landscaping and screening requirements as established in this section.

- (1) **Procedure.** Alternative compliance landscape plans shall be prepared and submitted in accordance with the landscape plan procedures as identified in this section. The plan shall be clearly labeled as an "*Alternative Compliance Landscape Plan*," and it shall clearly identify the modifications and alternatives proposed.
- (2) **Review criteria.** In reviewing proposed alternative compliance landscape plans, favorable consideration shall be given to exceptional landscape designs that attempt to preserve and incorporate existing vegetation in excess of minimum standards and plans that demonstrate innovative design and use of plant materials. Alternative compliance landscape plans may be approved upon a finding that any of the following circumstances exist on the proposed building site or surrounding properties:
 - a. Natural land characteristics or existing vegetation on the proposed development site would achieve the intent of this article;
 - b. Innovative landscaping or architectural design is employed on the proposed development site to achieve a screening effect that is equivalent to the screening standards of this section;
 - c. The required landscaping or buffering would be ineffective at maturity due to topography or the location of improvements on the site; or
 - d. The proposed alternative represents a plan that is as good or better than a plan prepared in strict compliance with the other standards of this section.
 - e. The alternative landscaping plan would achieve a better way to help achieve the containment of stormwater or enhance the overall quality of stormwater.

(j) **Modifications of standards.** The Community Development Director shall have the authority to waive or modify the requirements and standards of this section for good cause shown by the applicant.
(Ord 238-11, §1, 12-27-11; Ord 239-11, §1, 12-27-11; Ord 240-11, §1, 12-27-11; Ord 241-11, §1, 12-27-11; Ord 243-11, §1, 12-27-11; Ord 56-20, §1, 3-24-20; Ord 57-20, §1, 3-24-20)

Secs. 23-602 – 23-650. Reserved.

ARTICLE XVII. HISTORIC PRESERVATION

Sec. 23-651. Historic preservation.

(a) **Purpose.** It is hereby declared a matter of public policy that the protection, enhancement, preservation and use of improvements or sites of special character or special architectural, archeological or historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this section is to:

- (1) Effect and accomplish the protection, enhancement and preservation of such improvements, sites and districts which represent or reflect elements of Appleton's cultural, social, economic, political, artistic and architectural history;
- (2) Safeguard Appleton's historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures, sites and districts;
- (3) Foster civic pride in the notable accomplishments of the past;
- (4) Stabilize and improve property values and enhance the visual and aesthetic character of Appleton;
- (5) Protect and enhance Appleton's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.

(b) **General.** This section shall in no way be construed to undermine or supersede and shall be consistent with the existing adopted City of Appleton Municipal Code which protects the public health, safety and welfare of Appleton residents. Ordinary maintenance and repairs shall be made to ensure compliance with Article 4 of Chapter 4 of the Municipal Code.

(c) **Definitions.** See Section 23-22 Words and terms defined, under the reference "HISTORIC PRESERVATION".

(d) **Organization.** The Historic Preservation Commission is hereby created and shall consist of five (5) regular members and two (2) alternates appointed by the Mayor and subject to approval by the Common Council as vacancies occur or terms expire.

(e) **Members and qualifications.** If possible, one (1) regular member shall be an architect; one (1) shall be an alderperson; two (2) regular members shall have historian, restoration craftsman, or architectural history credentials or expertise, or other historic preservation related disciplines such as urban planning, American Studies, American Civilization, cultural geography or cultural anthropology; one (1) regular member shall be a licensed real estate broker with two (2) alternates appointed from any of the above qualifications. All members shall be selected for their knowledge of and interest in matters pertaining to this section. Alternate members shall have full voting power in the event one (1) or more regular members have declared a conflict of interest or in the event one (1) or more regular members are absent.

(f) **Terms.** The term for each member shall be three (3) years on staggered terms except, the alderperson will be appointed annually at the Common Council annual reorganizational meeting. The term for each member shall expire May 1 of each year.

(g) **Reorganizational meeting.** The Historic Preservation Commission shall reorganize in May of each year by electing a chair, vice-chair, contact person and secretary. All meetings of the Commission shall be held at the call of the chairman or at such times as the Commission determines.

(h) **Designation of local historic structures, local historic sites and local historic districts.** The Historic Preservation Commission shall have the power to recommend local designation of historic structures, historic sites and historic districts within the City of Appleton limits. Such designation shall be made based on the review of the local historic structure, local historic site and local historic district designation criteria identified in subsection (i) of this section. Local designation of historic sites, historic structures and historic districts shall be recommended to the Common Council for a final approval. Once designated, such local historic structures, local historic site and local historic district shall be subject to all the provisions of this chapter.

(i) **Local historic structure, local historic site and local historic district designation criteria.** For purposes of this chapter, a local historic structure, local historic site or local historic district designation may be placed on any improvement parcel, natural area, improvement, or any area of particular historic, architectural, archeological or cultural significance to the City of Appleton, the state or the nation, which is determined to have historical significance by meeting at least one (1) of the following criteria:

- a. Criterion 1: Are identified with important events that exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or
- b. Criterion 2: Are identified with an important person or persons that have made specific contributions to national, state or local history; or
- c. Criterion 3: Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship, or that represents a significant and distinguishable entity whose components lack individual distinction; or
- d. Criterion 4: Are representative of the notable work of a master builder, designer or architect who influenced his age; or
- e. Criterion 5: Have yielded, or may be likely to yield, information important to prehistory or history.

(j) **Operating guidelines.** The Historic Preservation Commission may adopt specific operating guidelines subject to Common Council approval for local historic structure, local historic site and local historic district designation, providing such operating guidelines are in conformance with the provisions of this chapter. It is important to ensure that these operating guidelines are reviewed on a regular basis to ensure they are appropriate to the architectural and site characteristics of the full range of the City of Appleton's designated local historic structures, local historic sites and local historic districts and that they adequately reflect current understandings of appropriate restoration and rehabilitation techniques.

(k) **Procedure for designation of local historic structures and sites.**

- (1) **Application process.** Application forms for designation of local historic structures and local historic sites shall be submitted to the Community Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then filed with the City Clerk.
- (2) **Informal Public hearing at Historic Preservation Commission.** At least fourteen (14) days prior to such informal public hearing, the Community Development Department shall mail the informal public hearing notice, by 1st Class mail, to the alderperson of the aldermanic district, owners of record of the proposed local historic structure designation or local historic site designation and owners situated within one hundred (100) foot radius of the nominated local historic structure or site, as listed in the Office of the City Assessor. The informal public hearing notice shall identify the purpose, date, time and place of the informal public hearing.
 - a. The Historic Preservation Commission shall then conduct such informal public hearing and, in addition to the notified persons, may hear expert witnesses and review records as it deems necessary.
- (3) **Action by the Historic Preservation Commission.** After the close of the informal public hearing, the Historic Preservation Commission shall review the criteria in subsection (i) a., b., c., d. and e. of this section and either recommend approval or denial of the proposed local historic structure designation or local historic site designation to the Common Council, unless time is extended by agreement between the Historic Preservation Commission and the owner or owner's agent in charge of the property.

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(4) *Action by the Common Council.*

- a. Notice of public hearing for proposed local historic structure designation or local historic site designation shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.
- b. At least fourteen (14) days prior to such public hearing, the City Clerk shall mail the public hearing notice by 1st Class mail, to the alderperson of the aldermanic district, owners of record of the proposed local historic structure designation or local historic site designation and owners situated within one hundred (100) foot radius of the nominated local historic structure or site, as listed in the Office of the City Assessor. The public hearing notice shall identify the purpose, date, time and place of the public hearing.
- c. After the close of the public hearing, the Common Council shall review the report and recommendation of the Historic Preservation Commission. The Common Council shall either approve or deny the proposed local historic structure designation or local historic site designation, or refer the matter back to the Historic Preservation Commission.
- d. City Clerk shall send written notice of the action taken by the Common Council to the property owner(s) or owner's agent, Community Development Department, Inspections Supervisor and the City Assessor.

(l) *Procedure for designation of local historic districts.*

- (1) ***Historic district designation criteria.*** For preservation purposes, the Historic Preservation Commission shall select geographically defined areas within the city of Appleton to be designated as a local historic district and shall, in cooperation with the property owner(s) or owner's agent prepare a Historic Preservation Plan for each area. A local historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the city of Appleton, after review of the criteria in subsection (i) a., b., c., d. and e. of this section.
 - a. ***Local Historic Preservation Plan.*** Each local historic preservation plan shall include the following:
 1. a brief description of the district,
 2. identification of the current property owners of record, of the contributing structures,
 3. identification of the uses/functions of each property in the district,
 4. a legal description of the district boundaries,
 5. a map showing the legal boundaries of the district,
 6. current photographs of the contributing structures,
 7. a historical/cultural and architectural analysis supporting the historic/cultural significance of the district, and
 8. a statement of preservation objectives and specific guidelines for future historic preservation alterations, historic preservation repairs or demolition activities within the district.
- (2) ***Application process.*** Application forms for local historic district designations shall be submitted to the Community Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application, the Local Historic Preservation Plan and supporting materials are then filed with the City Clerk.
- (3) ***Informal public hearing at Historic Preservation Commission.*** At least fourteen (14) days prior to such hearing, the Community Development Department shall mail the informal public hearing notice, by 1st Class mail, to the alderperson of the aldermanic district or districts, owners of record within the proposed local

historic district and owners of property in whole or in part situated within a one hundred (100) foot radius of the nominated local historic district, as listed in the Office of the City Assessor. The notice of informal public hearing shall identify the purpose, date, time and place of the informal public hearing.

- (4) ***Action by the Historic Preservation Commission.*** After the close of the informal public hearing, the Historic Preservation Commission shall review the criteria in subsection (i) a., b., c., d. and e. of this section and either recommend approval or denial of the proposed local historic district designation and adoption of the proposed Local Historic Preservation Plan to the Common Council, unless time is extended by agreement between the Historic Preservation Commission and the owner(s) or owner's agent in charge of the property.

(5) ***Action by the Common Council.***

- a. Notice of public hearing for designation of local historic districts and adoption of the Local Historic Preservation Plan shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.
- b. At least fourteen (14) days prior to such hearing, the City Clerk shall mail the public hearing notice by 1st Class mail, to the alderperson of the aldermanic district or districts, owners of record within the proposed local historic district, and owners of property in whole or in part situated within a one hundred (100) foot radius of the nominated local historic district, as listed in the Office of the City Assessor.
- c. After the close of the public hearing, the Common Council shall review the report and recommendation of the Historic Preservation Commission. The Common Council shall either approve or deny the proposed local historic district designation and the proposed Local Historic Preservation Plan, or refer the matter back to the Historic Preservation Commission. Designation of the local historic district shall constitute adoption of the proposed Local Historic Preservation Plan prepared for that local historic district and denotes the implementation of said plan.
- d. The City Clerk shall send written notice of the action taken by the Common Council to the property owners or owner's agent, Community Development Department, Inspections Supervisor and the City Assessor.

(m) ***Recognition of locally designated historic structures, historic sites and historic districts.*** At such time as a locally designated historic structure, historic site or historic district has been properly designated, the Historic Preservation Commission, in cooperation with the property owner(s) or owner's agent, may allow a suitable plaque, marker or other appropriate identifier declaring that such property is a local historic structure, local historic site, local historic district, or a contributing structure.

(n) ***Certificate of Appropriateness provision: Regulation for exterior construction, reconstruction, historic preservation alteration and demolition.***

- (1) No owner or owner's agent in charge of a local historic structure, local historic site or contributing structure shall be issued a permit by the Division of Inspections for any work identified in subsection (n)(2) a. and b. of this section, unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission.
- (2) An owner or owner's agent in charge of a local historic structure, local historic site or contributing structure shall apply for and receive approval of a Certificate of Appropriateness from the Historic Preservation Commission prior to performing any of the following work:
 - a. Historic preservation alterations or demolition of all or any part of a local historic structure, local historic site or contributing structure;
 - b. Historic preservation alterations or demolition of any improvement upon a local historic structure, local historic site or contributing structure.

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- (3) ***Application process.*** Application forms for a Certificate of Appropriateness shall be submitted to the Community Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then forwarded to the Historic Preservation Commission.
- a. ***Standards for granting Certificate of Appropriateness for exterior construction, reconstruction and historic preservation alterations.*** In determining whether to approve or deny a Certificate of Appropriateness for a historic preservation alteration, the Historic Preservation Commission shall approve the application if one (1) or more of the following can be demonstrated:
1. In the case of a local historic structure, local historic site or a contributing structure, the proposed work utilizes materials that are similar in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the construction of such local historic structure, local historic site, or contributing structure;
 2. In the case of the construction of a new improvement upon a local historic structure, local historic site, or a contributing structure, the exterior materials of such improvement are similar in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the construction of such local historic structure, local historic site, or contributing structure;
 3. In the case of any improvement made to a contributing structure, the proposed exterior historic preservation alteration shall conform to the purpose of this section and to the objectives and design criteria of the local historic preservation plan for the applicable local historic district.
- b. ***Standards for granting Certificate of Appropriateness for demolition.*** In determining whether to approve or deny a Certificate of Appropriateness for any demolition of all or part of a local historic structure, a local historic site or a contributing structure, the Historic Preservation Commission shall approve the application if one (1) or more of the following can be demonstrated:
1. The local historic structure or local historic site or contributing structure is in such deteriorated condition that it is not economically feasible to renovate or restore it, provided that any economic hardship or difficulty claimed by the owner or owner's agent has not been self-created or is not the result of any failure to maintain the local historic structure, local historic site or contributing structure in good repair.
 2. The local historic structure, local historic site or contributing structure is of such local architectural or historical significance that its demolition would not be detrimental to the public interest and would not be contrary to the general welfare of the people of the city of Appleton and the state;
 3. The denial of the demolition permit would result in the loss of reasonable and beneficial use of or economic return from the property.
- (4) ***Review and decision by the Historic Preservation Commission.*** The Historic Preservation Commission, within twenty-five (25) business days from the date the Certificate of Appropriateness application was accepted by the Director, shall either approve or deny the application, unless the time is extended by agreement between the Historic Preservation Commission and the owner or owner's agent in charge of the property. The Historic Preservation Commission shall clearly state the reasons why the exterior materials are similar or are not similar in design, color, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the construction of such local historic structure, local historic site, or contributing structure.

(5) *Appeals.*

- a. If the Historic Preservation Commission denies the Certificate of Appropriateness, the Historic Preservation Commission shall, at the request of the owner or person in charge of such property, work with the owner or owner's agent in charge of such property in an attempt to obtain a Certificate of Appropriateness within the standards of this section.
- b. In addition, if the Historic Preservation Commission denies the application for a Certificate of Appropriateness due to the proposal failing to conform to the standards for granting a Certificate of Appropriateness as identified in this section, the owner or owner's agent may appeal such decision to the Common Council.
 1. The owner or owner's agent in charge of such property shall file a written appeal specifying the grounds for such an appeal with the Director no later than thirty (30) days from the date of the decision of the Historic Preservation Commission. Failure by the owner or owner's agent in charge of such property to file a written appeal in accordance with the abovementioned provisions shall be deemed to constitute a withdrawal of the application for a Certificate of Appropriateness.
 2. After consideration of the appeal, the Common Council by majority vote may either affirm the decision of the Historic Preservation Commission or approve the issuance of the Certificate of Appropriateness, in which case the Director shall issue the Certificate of Appropriateness.

- (6) ***Other permits and approvals.*** The approval of a Certificate of Appropriateness shall not relieve the property owner or owner's agent from applying for and obtaining all necessary permits and approvals pursuant to the Municipal Code prior to the commencement of such proposed work.

- (7) ***Violation; penalty.*** Failure to comply with the approved Certificate of Appropriateness or failure to obtain a Certificate of Appropriateness prior to the issuance of a building permit shall be a violation of this section. Administration and enforcement shall be as prescribed in the enforcement section of this chapter.

(o) ***Exempt work from Certificate of Appropriateness provisions.*** Historic preservation repairs made to a local historic structure or local historic site or contributing structure may be undertaken without a Certificate of Appropriateness, provided the work involves repairs to existing exterior features of a local historic structure or local historic site, or the replacement of existing exterior features of a local historic structure, local historic site or contributing structure with materials that are identical in design, scale, architectural appearance, and other visual qualities including, but limited to, alignment, character, context, directional expression, height, location, materials, massing, proportion, relationship of solids to voids, rhythm, setting, size, volume, etc. to the original exterior materials used in the construction of such local historic structure, local historic site, or contributing structure and does not require the issuance of a building permit. Painting is exempt from the Certificate of Appropriateness provisions.

(p) ***Procedure to rescind a local historic structure designation, local historic site designation and local historic district designation.***

(1) *Application process.*

- a. ***Rescind a local historic structure designation or local historic site designation.*** The property owner or owner's agent in charge of a local historic structure or local historic site shall submit an application form to rescind a local historic structure designation or local historic site designation to the Community Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then filed with the City Clerk.
- b. ***Rescind a local historic district designation.*** The majority (greater than fifty percent (50%)) of the property owners and/or owner's agents in charge of a contributing structure shall submit an application form to rescind a local historic district designation and the applicable local historic preservation plan to the Community Development Department. After submittal and acceptance of a complete application

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through initial review by the Director, the complete application, which includes the written application and supporting materials are then filed with the City Clerk.

(2) ***Public Hearing at Historic Preservation Commission.***

- a. Notice of public hearing to rescind a local historic structure designation, local historic site designation, or local historic district designation and the applicable local historic preservation plan shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.
- b. At least fourteen (14) days prior to such hearing, the Community Development Department shall mail the public hearing notice, by 1st Class mail, to the alderperson of the aldermanic district, owners of record, and owners of property in whole or in part situated within a one hundred (100) foot radius of the local historic structure, local historic site or local historic district, as listed in the Office of the City Assessor.
- c. The Historic Preservation Commission shall then conduct such public hearing, and in addition to the notified persons, may hear expert witnesses and review records as it deems necessary.

(3) ***Action by the Historic Preservation Commission.*** After the close of the public hearing, the Historic Preservation Commission shall review the rescission criteria in subsection (p)(3)a.1., 2., 3., and 4. of this section and either recommend approval or denial of the proposed rescission to the Common Council.

a. ***Rescission Criteria.*** Rescission can occur for any one (1) or more of the following:

1. The property owner has requested the designation to be rescinded for economic hardship or health reasons;
2. For the failure to adhere to the specific standards of the historic district in which the property is located;
3. For the failure to adhere to the specific standards of the zoning district the property is located; or
4. The designated historic structure, site or district no longer meets the criteria of designation or retains the integrity necessary for designation.

(4) ***Action by the Common Council.***

- a. After receiving and reviewing the report and recommendation of the Historic Preservation Commission the Common Council shall either approve, deny, or postpone the proposed application to rescind a local historic site designation, a local historic structure designation or a local historic district designation and the applicable local historic preservation plan, or refer the matter back to the Historic Preservation Commission.
- b. The City Clerk shall send written notice of the action taken by the Common Council to the property owner(s) or owner's agent, Community Development Department, Inspections Supervisor and the City Assessor.

(q) ***Building permit.***

- (1) No building permit shall be issued by the Division of Inspections for historic preservation alteration, demolition or removal of a nominated local historic structure, local historic site, or a structure identified as contributing to a nominated local historic district, from the initial meeting date when the Historic Preservation Commission has been presented with a nomination through the date of final disposition of the nomination by the Common Council. No building permit shall all be issued for the following reasons: historic preservation alteration, removal or demolition. An exception shall be permitted when historic preservation alteration, repair, removal or demolition is authorized by formal resolution of the Common Council as necessary for public health, welfare or safety. In no event shall the delay be for more than sixty (60) days.

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(Ord 139-95, §1, 12-20-95, Ord 45-00, §1, 6-10-00; Ord 98-12, §1, 10-9-12; Ord 88-19, §1, 9-10-19)

Editor's Note: Article XVII Historic Preservation was repealed and recreated via ordinance 98-12 adopted by the Common Council on October 3, 2012, published October 8, 2012, effective October 9, 2012.

Secs. 23-652 – 23-699. Reserved.

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ARTICLE XVIII. SMALL WIND ENERGY SYSTEMS.

Sec. 23-700. Small wind energy systems.

(a) **Purpose.** The purpose of this ordinance is to oversee the permitting of small wind energy systems and preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a small wind energy system (per Wis. Stat. §66.0401).

(b) **Definitions.** See §23-22 Definitions of this ordinance under “small wind energy systems”.

(c) **Development standards.** Small wind energy systems are accessory uses and shall be a special use in all residential districts and a permitted accessory use in all other zoning districts:

(1) **Setbacks.** A wind tower for a small wind system shall be set back a distance equal to its total height from:

- a. Any right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the right-of-way. Such permission shall be in a form acceptable for recording in the county Register of Deeds office for the parcel on which the tower is located. A copy of the recorded form shall be provided to the City prior to building permit issuance.
- b. Any overhead utility lines, that are within the falling arc of the entire small wind energy system plus ten (10) feet unless written permission is granted by the affected utility. Such permission shall be in a form acceptable for recording in the county Register of Deeds office for the parcel on which the tower is located. A copy of the recorded form shall be provided to the City prior to building permit issuance.
- c. All property lines, unless written permission is granted from the affected land owner or neighbor. Such permission shall be in a form acceptable for recording in the county Register of Deeds office for the parcel on which the tower is located. A copy of the recorded form shall be provided to the City prior to building permit issuance.

(2) **Access.**

- a. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
- b. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground.

(3) **Electrical wires.** All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall not be suspended in the air.

(4) **Lighting.** A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

(5) **Appearance, color and finish.** The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless otherwise indicated in the building permit.

(6) **Signs.** All signs, other than the manufacturer’s or installer’s identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system shall be prohibited.

(7) **Code compliance.** A small wind energy system including tower shall comply with all applicable federal, state and/or local construction and electrical codes.

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- (8) **Utility notification and interconnection.** Small wind energy systems that connect to the electrical utility shall comply with the Public Service Commission of Wisconsin's Rule 119, "Rules for Interconnecting Distributed Generation Facilities."
- (9) **Standards for met towers.** Met towers shall be permitted under the same standards, permit requirements, restoration requirements and permit procedures as a small wind energy system.

(d) **Permit requirements.**

- (1) **Permits.** All required permits, including but not limited to, building and electrical permits, shall be obtained prior to the installation of a small wind energy system.
- (2) **Documents.** The building permit application shall be accompanied by a site plan which includes the following:
 - a. Property lines and physical dimensions of the property;
 - b. Location, dimensions, and types of existing structures on the property;
 - c. Location of the proposed wind system tower;
 - d. The right-of-way of any public road that is contiguous with the property;
 - e. Any overhead utility lines;
 - f. Wind systems specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed);
 - g. Tower foundation plans and specifications;
 - h. Tower plans and specifications.

(e) **Site plan review.** Small wind energy systems require a site plan review and approval process and shall comply with all applicable standards and regulations as identified in §23-570. Site Plan Review and Approval, of this ordinance.

(f) **Fees.** The application for a building permit for a small wind energy system must be accompanied by the fee required for a building permit for a permitted accessory use.

(g) **Expiration.** A permit issued pursuant to this ordinance shall expire if:

- (1) The small wind energy system is not installed and functioning within twenty-four (24) months from the date the permit is issued; or,
- (2) The small wind energy system is out of service or otherwise unused for a continuous twelve (12) month period.

(h) **Abandonment.**

- (1) A small wind energy system that is out-of-service for a continuous twelve (12) month period will be deemed to have been abandoned. The Building Inspection Supervisor may issue a Notice of Abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from Notice receipt date. The Building Inspection Supervisor shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.
- (2) If the small wind energy system is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator from the tower at the owner's sole expense within three (3) months receipt of Notice to Abandonment. If the owner fails to remove the wind generator from the tower, the Building Inspection Supervisor may pursue a legal action to have the wind generator removed at the owner's expense.

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(i) ***Building permit procedure.***

- (1) An owner shall submit an application to the Building Inspection Supervisor for a building permit for a small wind energy system. The application must be on a form approved by the Building Inspection Supervisor and must be accompanied by two (2) copies of the site plan identified in (d)(2) above.
- (2) The Building Inspection Supervisor shall issue a building permit or deny the application within one (1) month of the date on which the application is received.
- (3) The Building Inspection Supervisor shall issue a building permit for a small wind energy system if the application materials show that the proposed small wind energy system meets the requirements of this ordinance.
- (4) If the application is approved, the Building Inspection Supervisor will return one signed copy of the application with the permit and retain the other copy with the application.
- (5) If the application is rejected, the Building Inspection Supervisor will notify the applicant in writing and provide a written statement of the reason why the application was rejected. The applicant may appeal the Building Inspection Supervisor's decision pursuant to Chapter 68 Wis. Statutes. The applicant may resubmit if the deficiencies specified by the Building Inspection Supervisor are resolved.
- (6) The owner shall conspicuously post the building permit on the premises so as to be visible to the public at all times until construction or installation of the small wind energy system is complete, and full use authorized as signed by pertinent authority.

(j) ***Site plan review procedure.*** Prior to obtaining a building permit an owner/applicant shall obtain site plan approval as required by §23-570. Site Plan Review and Approval of this ordinance.

(k) ***Violations.*** It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with manufacturer's requirements and this ordinance or with any condition contained in a special use permit and a building permit issued pursuant to the ordinance. Small wind energy systems installed prior to the adoption of this ordinance are exempt.

(l) ***Administration and enforcement.***

- (1) This ordinance shall be administered by the Building Inspection Supervisor or other official as designated.
- (2) The Building Inspection Supervisor or designee may enter any property for which a building permit has been issued under this ordinance to conduct an inspection to determine whether the condition stated in the permit have been met.
- (3) The Building Inspection Supervisor may issue orders to abate any violation of this ordinance.
- (4) The Building Inspection Supervisor may issue a citation for any violation of this ordinance.
- (5) In addition to the above §23-69 Enforcement of this ordinance shall apply.

(Ord 73-11, §1, 3-8-11)

Secs. 23-701 – 23-749. Reserved.

ARTICLE XIX. SHORELAND ZONING

Sec. 23-750. Statutory authorization.

(a) This ordinance is adopted pursuant to the authorizations in §62.233 of the Wisconsin Statutes for villages and cities.

(b) The Appleton Common Council determines that uncontrolled development and use of the shorelands of this municipality would impair the public health, safety, convenience, general welfare and tax base.

Sec. 23-751. Definitions.

As used in this article of the zoning ordinance, the following terms shall have the meanings indicated:

Navigable waters means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under s. 281.31(2)(d) Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder shoreland ordinances required under s. 59.692, Stats., and this chapter do not apply to lands adjacent to farm drainage ditches if:

(a) Such lands are not adjacent to a natural navigable stream or river;

(b) Those parts of such drainage ditches adjacent to such lands were nonnavigable streams before ditching or had no previous stream history; and

(c) Such lands are maintained in nonstructural agricultural use.

Ordinary high-water mark means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.

Principal building means a building which contains the primary use of the lot, as contrasted to accessory structure, building or use. In any residential zone a dwelling shall be deemed to be the principal building on the lot.

Shorelands has the meaning given in §59.692(1)(b) of the Wisconsin Statutes.

Shoreland setback area has the meaning given in §59.692(1)(bn).

Shoreland zoning district means a zoning district comprised of shorelands that are subject to the provisions of Sec. 23-752.

Sec. 23-752. Jurisdiction.

The jurisdiction of this chapter shall include all the shorelands of the City which are:

(a) Within 1,000 feet of the ordinary high water mark of navigable lakes, ponds or flowages. Lakes, ponds, or flowages in the City shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources' publication "Surface Water Resources of Outagamie County" or shown on U.S. Geological Survey Quadrangle maps. If evidence to the contrary is presented, the Director of Public Works shall make the initial determination whether or not the lake, pond, or flowage in question is navigable under the laws of the State. The Director of Public Works shall also make the initial determination of the location of the Ordinary High Water Mark.

(b) Within 300 feet of the ordinary high water mark of navigable waterways. For the purposes of this subsection, waterways in the City shall be presumed to be navigable if they are designated as a Navigable Stream on the City of Supp. #100

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Appleton Official Shoreland Zoning District Map, which references the Wisconsin Department of Natural Resources publication Surface Water Resources of Outagamie County and the U.S. Geological Survey Quadrangle maps.

If evidence is presented that a waterway is Non-Navigable, then the Director of Public Works shall make the initial navigability determination under the laws of the State. The Director of Public Works shall also make the initial determination of the location of the Ordinary High Water Mark.

(Ord 114-25, §1, 10-15-25)

Sec. 23-753. Shoreland zoning district boundaries.

The Official Shoreland Zoning District Map is hereby adopted and made part of this chapter. The boundaries of the shorelands shall be depicted on this map as defined in Section 23-751. Copies of the map shall be available for public viewing in the Department of Public Works.

Sec. 23-754. Requirements.

(a) There shall be established a shoreland setback area of at least fifty (50) feet from the ordinary high water mark (this could be greater than fifty (50) feet).

(b) The principal building may be constructed or placed within the shoreland area if all of the following apply:

- (1) The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building.
- (2) The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or thirty-five (35) feet from the ordinary high water mark, whichever distance is greater.

(c) A person who owns shoreland property that contains vegetation, shall maintain that vegetation in a vegetative buffer zone along the entire shoreline of the property and extending thirty-five (35) inland from the ordinary high water mark of a navigable water, except as provided in subsection (2).

(d) If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation the owner of the shoreland property may remove the vegetation, except that if the owner removes all of the vegetation in the vegetative buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.

(e) The person who is required to maintain or establish a vegetative buffer zone under paragraph (c) above, may remove all of the vegetation in a part of that zone in order to establish a viewing or access corridor that is no more than thirty (30) feet wide for every one hundred (100) feet of shoreland frontage and that extends no more than thirty-five (35) feet inland from the ordinary high water mark.

Sec. 23-755. Zoning agency.

(a) The Director of Public Works shall:

- (1) Review and advise the governing body on all proposed amendments to this article, maps and text.

(b) This Director of Public Works shall not

- (1) Grant variances to the terms of the ordinance in place of action by the Board of Appeals; or
- (2) Amend the text or zoning maps in place of official action by the governing body.

Sec. 23-756. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other powers granted Supp. #100

by the Wisconsin Statutes. Where a provision of this chapter is required by a standard in Wis. Admin. Code ch. NR 115 and where the meaning of the chapter provision is unclear, the provision shall be interpreted in light of the Wis. Admin. Code ch. NR 115 standards in effect on the date of the adoption of the ordinance from which this chapter is derived or in effect on the date of the most recent text amendment to this chapter.

23-757. Rules for interpretation of district boundaries.

Where uncertainty exists as to the boundary of the Shoreland District as shown on the Official Zoning Map, the following rules shall apply:

- (a) Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines;
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (c) Boundaries indicated as approximately following City limits shall be construed as following such City limits;
- (d) Boundaries indicated as following railroad lines shall be construed to be the centerline of the railroad right-of-way;
- (e) Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines;
- (f) Boundaries indicated as parallel to or extensions of features indicated in subsections (a) through (e) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- (g) Boundaries indicated as dividing a lot or plot of land shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- (h) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (a) through (g) above, the Director of Public Works shall interpret the district boundaries.

23-758. Applicability.

This article does not apply to lands annexed to the City prior to May 7, 1982.
(Ord 54-14, §1, 7-22-14)