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State law reference(s)—Classes of cities, W.S.A. §62.05.
Editor’s Note: Chapter 2 – Administration was repealed and recreated by Ordinance No. 44-12, adopted by the Appleton Common Council on June 6, 2012, published on June 11, 2012 and becoming effective on June 12, 2012.
DIVISION 14. RESERVED.

Secs. 2-540 – 2-549. Reserved.

Editor's Note: Division 14, Department of the Assessor, was repealed and reserved pursuant Ordinance 77-12 adopted by the Common Council on August 15, 2012, published on August 20, 2012 and effective on August 21, 2012.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

DIVISION 15. DEPARTMENT OF LEGAL SERVICES.

Sec. 2-550. Created.

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

(Ord 44-12, §1, 6-6-12)

Secs. 2-551 – 2-559. Reserved.
ARTICLE VI. ELECTIONS.*

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

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

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

That the City Clerk be authorized to take all necessary actions regarding the preparation for, and conduct of, elections as authorized by Wisconsin Statutes Chapters Five (5) through Twelve (12). (Code 1965, §1.08; Ord 4-08, §1, 2-12-08)

*Charter ordinance references – Elected officials, §2-1; wards, §2-3. Cross reference(s) – Common Council, §2-26 et seq.; political sign regulations, §23-508(c)(16). Editor’s Note: §2-413 was repealed by the Common Council effective January 13, 2009 pursuant to Ord 1-09.

Sec. 2-562. Municipal Board of Absentee Canvassers.

(a) The Board of Absentee Canvassers shall be composed of the City Clerk or a qualified elector of the City designated by the City Clerk, and two other qualified electors of the City appointed by the City Clerk for a term of two years commencing on January 1 of each odd-numbered year. The initial terms of appointment shall expire on January 1, 2019, unless reappointed. All appointments shall comply with Wis. Stats. §§7.52 and 7.53.

(b) The Board of Absentee Ballot Canvassers shall operate pursuant to the provisions of Wis. Stats. §§7.52 and 7.53, as applicable.

(c) Pursuant to Wis. Stats. §7.52(1)(b), the City Clerk may appoint additional inspectors to assist the Absentee Ballot Board of Canvassers in canvassing absentee ballots under this section.

(d) The Common Council, in lieu of canvassing absentee ballots at polling places, hereby provides for the canvassing of absentee ballots by the Board of Absentee Ballot Canvassers, which shall canvass all absentee ballots at all elections held in the city pursuant to procedures established by the state division governing elections.

(e) The City Clerk shall give at least 48 hours notice of any meeting of the Board of Absentee Canvassers under this section.

(f) The City Clerk, no later than the closing hour of the polls, shall post at the City Clerk’s Office and on the City of Appleton website, and shall make available to any person upon request, a statement of the number of absentee ballots that the City Clerk has mailed or transmitted to electors and that have been returned by 8:00 p.m. on Election Day. (Ord 66-18, §1, 7-24-18)

(The next page is 207.)
certificate of rabies vaccination from this state or another state, the owner of that animal shall have the animal revaccinated:

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

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

(b) The owner of a dog may petition the Health Officer for an exemption to this section. Exemptions shall only be considered if a licensed veterinarian provides a detailed written explanation stating the vaccination is inadvisable because of a reaction to a previous vaccination, a physical condition, or a regimen of therapy that the dog is undergoing. A new letter shall be required for each year that an exemption is sought. The owner may appeal the Health Officer’s decision to the Board of Health by following the same review process set forth in Code §3-131.

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

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

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

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

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

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

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

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

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

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

(Code 1965, §23.01)

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

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

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

(Code 1965, §23.18)

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

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

Sec. 3-23. Abatement orders.

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

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

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

(Ord 17-05, §1, 3-8-05)
Sec. 3-24. Police dogs.

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

Editor's Note: This section replaces §10-11, which has been deleted.
(Ord 17-05, §1, 3-8-05)

Secs. 3-25 – 3-50. Reserved.

ARTICLE II. LICENSES

DIVISION I. GENERALLY

Sec. 3-51. Issuance.

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

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

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

Sec. 3-52. Restricted species.

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

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

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

(d) Upon obtaining a permit issued by the Health Department, and subject to the requirements and limitations on file with the Health Department, a limited number of pigeons may be maintained by the permit holder.

(e) Upon obtaining a permit issued by the Health Department, and subject to the Rules and Regulations for hen keeping, up to six (6) chicken hens may be maintained by the permit holder. The Rules and Regulations for chicken hen keeping shall be on file in the Health Department.

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DEPARTMENT. The permit will allow up to six (6) chicken hens at all one- (1-) and two (2-) family dwellings.
(Ord 39-92, §1, 4-15-92; Ord 141-09, §1, 8-25-09; Ord 74-11, §1, 3-22-11; Ord 37-12, §1, 5-16-12; Ord 12-13, §1, 4-9-13; Ord 82-15, §1, 10-13-15, Ord 30-17, §1, 4-11-17;
Ord 39-17, §1, 6-13-17; Ord 63-18, §1, 7-24-18)

Sec. 3-53. Kennels and pet stores.

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

Secs. 3-54 – 3-65. Reserved.

DIVISION 2. LICENSE FOR DOGS AND CATS.

Sec. 3-66. Required.

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

(b) Application for a license must be made within thirty (30) days after obtaining a dog or cat over four (4) months of age, except that this requirement will not apply to a nonresident keeping a dog, or cat within the municipality for not longer than thirty (30) days.
(Code 1965, §23.03(a) (1), (4))

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

Sec. 3-67. Application.

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

Sec. 3-68. Reserved.

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

Sec. 3-69. Issuance; fee.

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

(b) License fees shall be as follows:

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

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

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

Sec. 3-70. Persons exempted from fee.

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

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

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

Sec. 3-72. Late fee.

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

Sec. 3-73. Duplicates.

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

Sec. 3-74. Issuance of tags.

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

Sec. 3-75. Record of tags.

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

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

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

Sec. 3-77. Unlawful use.

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

Sec. 3-78. Revocation.

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

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

Secs. 3-79 – 3-90. Reserved.
ARTICLE VI. ELECTRICAL

DIVISION 1. GENERALLY

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

The Wisconsin Administrative Code, SPS chapters 305 and 316, §101 subchapter IV and We Energies meter manuals are hereby adopted by reference and made a part of this article with the same force and effect as though set out in full in this article.
(Code 1965, §17.01; Ord 85-97, §1, 10-15-97, Ord 213-01, §1, 11-26-01; Ord 36-09, §1, 3-10-09, Ord 13-15, §1, 3-24-15 (renumbered from Sec. 3-342))

Sec. 4-342. Definitions.

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

Electrical work. Electrical work means and includes the installation of electrical wiring, devices and equipment for the production, modification, utilization or safeguarding of electrical energy as covered by the code adopted in §4-341.

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

Maintenance includes only the necessary repairs to provide the safe operation of previously installed electrical equipment.
(Code 1965, §17.03, Ord 212-01, §1, 11-26-01, Ord 48-02, §1, 4-3-02; Ord 36-09, §1, 3-10-09; Ord 27-12, §1, 3-21-12, Ord 13-15, §1, 3-24-15 (renumbered from Sec. 3-341))

Cross reference(s)—Definitions and rules of construction generally, §1-2, electrical distribution system in mobile home parks, §11-78.
State law reference--Electrical conservation in public buildings and places of employment, W.S.A. §101.80 et seq.

Sec. 4-343. Enforcement generally.

The electrical inspector shall enforce all the ordinances or laws relating to electrical installation, including any lawful orders issued by the Department of Safety and Professional Services or any other agency of the State; there is hereby vested in the electrical inspector the necessary power and authority to properly execute such duties. The electrical inspector may issue a citation for any violation of this chapter at any state 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, 3-7-12, 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 appliances
installed in places of public use and occupancy within the
City. When such wires or appliances are found to be in a
dangerous or unsafe condition, he shall notify the person
owning, using, operating or installing the wires or appliances
to place them in a safe condition. The electrical inspector
may order the discontinuance of electrical service to such
defective wires or equipment until they have been repaired,
removed or changed as directed by the electrical inspector,
subject to the limitations of this article.
(Code 1965, § 17.02(3); Ord 32-92, §1, 3-18-92; Ord 174-93,
§1, 10-19-93; Ord 118-96, §1, 12-18-96; Ord 36-09, §1, 3-
10-09; Ord 13-15, §1, 3-24-15)

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

Upon the completion of the wiring of any building or
before any wiring is to be hidden from view, or prior to
reconnecting of service drop or reattachment of electric
meter, the person doing the wiring shall notify the electrical
inspector. The electrical inspector shall inspect within two
full business days following the day of notification, excluding
weekends and holidays. If, upon inspection, it is found that
such installation is fully in compliance with this article and
does not constitute a hazard to life or property, the electrical
inspector shall approve the installation and authorize
concealment of such wiring or connection for electrical
service. If the installation is not strictly in accordance with
this article, he shall 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 section 4-392(c) 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.
(Code 1965, §17.07; Ord 32-92, §1, 3-18-92; Ord 174-93, §1,
10-19-93; Ord 53-95, §1, 3-3-95; 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. Exceptions to construction requirements.

(a) Type NM or NMC nonmetallic sheathed cable shall
not be used as the wiring method in buildings and structures
other than single-family and multifamily dwellings.

(b) All service entrance conductors shall be installed in a
raceway.
(Code 1965, §17.09(2), Ord 215-01, §1, 11-26-01; Ord 36-
09, §1, 3-10-09; Ord 148-11, §1, 6-7-11)

Sec. 4-350. Review of condemnation order.

When the electrical inspector condemns all or part of the
electrical installation in any building, the owner, within five
(5) days after receiving written notice from the electrical
inspector, may file a petition in writing for review of the
action of the electrical inspector to the chairman of the Board
of Building Inspection in accordance with §4-26.
(Code 1965, §17.10; Ord 32-92, §1, 3-18-92; Ord 174-93, §1,
10-19-93; Ord 118-96, §1, 12-18-96; Ord 36-09, §1, 3-10-09;
Ord 13-15, §1, 3-24-15)

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

This article shall not be construed to relieve from or
lessen the responsibility or liability of any party owning,
BUILDINGS AND BUILDING REGULATIONS

DIVISION 2. LICENSE

Sec. 4-391. Required.

No person, either individually, as a member of a firm, or as an officer or employee of a corporation, shall conduct the business of electrical wiring, electrical construction or contracting, unless such person has a license as required by §101.862
(Code 1965, §17.05(1)-(3); Ord 50-94, §1, 4-6-94, Ord 216-01, §1, 11-26-01, Ord 65-07, §1, 3-27-07; Ord 36-09, §1, 3-10-09; Ord 13-15, §1, 3-24-15)

Sec. 4-392. Exemptions.

As allowed under §101.862(4)(a), a residential property owner may perform electrical work in his own dwelling which he owns and occupies without a license, with the exception of installing or replacing of service equipment, as long as the work is being conducted in a single family dwelling. Electrical work performed on a residential property which is not a single family owner occupied dwelling will need to be performed by a licensed electrical contractor. The owner of the property must procure a permit prior to starting any electrical work.
(Code 1965, §17.05(6); Ord 13-15, §1, 3-24-15; Ord 99-18, §1, 11-13-18)

Secs. 4-393 – 4-415. Reserved.

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

Sec. 4-416. Application; issuance.

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

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

(2) 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)

Sec. 4-417. Reserved.

Sec. 4-418. Electrical fees.

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

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

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

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

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

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

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

(h) Reinspection. A thirty-five dollar ($35.00) call back inspection fee may be charged each time a reinspection is necessary due to failure to correct, faulty, defective or incomplete work identified during a prior inspection. (Code 1965, § 17.06(3)(a)–(f), (h), (j); Ord 106-97, §1, 12-17-97, Ord 218-021, §1, 11-26-01; Ord 67-07, §1, 3-27-07; Ord 13-15, §1, 3-24-15)

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

It shall be unlawful for any licensed electrical contractor or person with a master’s license to allow the use of said license, directly or indirectly, for the purpose of obtaining local electrical permits for others. (Code 1965, § 17.06(3)(g); Ord 13-15, §1, 3-24-15)

Sec. 4-420. Temporary installations.

On applying for an electrical permit for temporary work, a specified period of time for which such wiring is to remain in service must be stated. Service shall be cut off at the end of this period and shall not again be connected without written permission from the electrical inspector. (Code 1965, § 17.06(4))
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Editor’s Note: Chapter 6, Fire Prevention and Protection, was repealed and recreated by Ord 23-09, adopted by the Common Council on January 7, 2009 and becoming effective January 13, 2009.

Editor’s Note: Chapter 6, Fire Prevention and Protection, was repealed and recreated by Ord 25-18, adopted by the Common Council on February 21, 2018 and becoming effective February 27, 2018.

State law reference(s)—Fires and fire protection, W.S.A. §§101.09, 101.14 et seq.

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ARTICLE I. IN GENERAL

Sec. 6-1. Intent of chapter.

It is the intent of this chapter to prescribe regulations consistent with the nationally recognized standard practice for the safeguarding, to a reasonable degree, of life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, from conditions hazardous to life and property in the use or occupancy of buildings or premises, and the adequacy of exit systems. (Code 1965, §19.01; Ord 1-91, §1(19.01), 1-9-91; Ord 23-09, §1, 1-13-09, Ord 25-18, §1, 2-27-18)

Sec. 6-2. Fire equipment.

(a) No person shall molest, tamper with, damage or otherwise disturb any apparatus, equipment or appurtenance belonging to or under the supervision and control of the Fire Department without authority from the Chief or his/her authorized representative.

(b) No person shall remove, tamper with or otherwise disturb any fire hydrant or fire appliance required to be installed or maintained under the provisions of this code, except for the purpose of extinguishing fires, training purposes, recharging or making necessary repairs or when permitted by the Fire Department. Whenever a fire appliance is removed as permitted herein, it shall be replaced or reinstalled as soon as the purpose for which it was removed has been accomplished. No person shall use or operate any hydrant or other valves installed on any water system intended for use by the Fire Chief for fire suppression purpose, and which is accessible to any public highway, alley or private way open to or generally used by the public, unless such person first secures permission from the Fire Department. This section does not apply to the use of a hydrant or other valves by a person employed by and authorized to make such use by the Water Department which supplies water to such hydrants or other valves.

(c) No person shall place or keep any post, fence, vehicle, growth, trash, storage or other material near any fire hydrant, Fire Department connection or fire protection system control valve that would prevent such equipment or hydrant from being immediately discernible or in any other manner deter or hinder the Fire Department from gaining immediate access to the equipment or hydrant. A minimum three- (3-) foot clear space shall be maintained around the circumference of the fire hydrants except as otherwise required or approved by the Fire Chief.

(d) Where on-site fire hydrants are required on private property, the City shall annually inspect, flush and, if necessary, paint said hydrants for the fee per hydrant on file with the City Clerk's Office. The owner shall be notified of any repairs or maintenance necessary, and it shall be the owner's responsibility to see that any repair or maintenance is performed in accordance with the National Fire Protection Association Standard 25, the City Water Utility's standard operating procedures and the American Water Works Standards for fire hydrant maintenance. The property owner or agent must call between April 1 and October 1 of each year to schedule the annual flush and inspection.

(e) The property owner or agent shall keep and maintain records indicating when the hydrants are flushed, painted and maintained. These records shall be made available to the City upon request. (Code 1965, §19.14; Ord 1-91, §1(19.14), 1-9-91; Ord 59-91, §1, 6-20-91, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09; Ord 34-11, §1, 2-8-11, Ord 25-18, §1, 2-27-18)

Sec. 6-3. Enforcement by Fire Chief.

The Fire Chief shall be responsible for fire protection. This chapter shall be enforced by the Fire Chief, designated by the City and the State as the "authority having jurisdiction", in all matters concerning this chapter and related fire prevention activities. The Fire Chief may appoint a Fire Marshal or other designee who will act on the Chief's behalf in matters concerning fire prevention. (Code 1965, §19.03(1); Ord 1-91, §1(19.03), 1-9-91; Ord 23-09, §1, 1-13-09, Ord 25-18, §1, 2-27-18)

Sec. 6-4. Police assistance.

Whenever requested to do so by the Fire Chief or his/her designee, the Chief of Police shall assign such available police officers as in his/her discretion may be necessary to assist the Fire Department in enforcing the provisions of this chapter. (Code 1965, §19.03(5); Ord 1-91, §1(19.03(5)), 1-9-91; Ord 23-09, §1, 1-13-09, Ord 25-18, §1, 2-27-18)

Sec. 6-5. Right of entry.

(a) For purposes of this section, the authorized representative shall include all members of the Fire Prevention Program and all officers of the Fire Department.

(b) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Fire Chief or his/her authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises unsafe, the Fire Chief or his/her authorized representative may enter such building or premises at any reasonable times to inspect the building or premises or to perform any duty imposed upon the Fire
Chief by this chapter.

(c) If such building or premises is occupied, the Fire Chief or authorized representative shall first present proper credentials and demand entry. If such building or premises is unoccupied, he/she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Fire Chief or his/her authorized representative, shall have recourse to every remedy provided by law to secure entry.

(d) If the owner or occupant denies entry, the Fire Chief or his/her authorized representative shall obtain a proper inspection warrant or other remedy provided by law to secure entry. No owner or occupant or any other persons having charge, care or control of any building or premises, shall fail or neglect, after proper request is made as provided herein, to promptly permit entry therein by the Fire Chief or his/her authorized representative for the purpose of inspection and examination pursuant to this chapter.

(Code 1965, §19.03(5); Ord 1-91, §1(19.03(5)), 1-9-91; Ord 23-09, §1, 1-13-09, Ord 25-18, §1, 2-27-18)

Sec. 6-6. Removal of fire hazards.

(a) Whenever an inspection by the Fire Chief reveals a fire hazard, the Fire Chief may provide a notice, in writing, upon the owner or occupant of the property giving the owner or occupant sufficient time in which to remove the hazard. If the fire hazard is not removed within the time prescribed, it shall be deemed a nuisance and the Fire Chief shall have the hazard removed by the City and the cost of removal reported to the Director of Finance and spread on the tax roll as a special charge against the property, as prescribed in §12-32 et seq.

(b) Within ninety (90) days after the removal of any flammable/combustible liquids tank, all barreled sludge or liquids must be removed from the property.

(Code 1965, §19.03(2); Ord 1-91, §1(19.03(2)), 1-9-91; Ord 4-93, §1, 1-6-93; Ord 6-95, §1, 2-1-95; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-7. Vacation of buildings.

(a) The Fire Chief is hereby empowered to close any building or structure, and order it vacated wherein violations of any regulations of this chapter are found and not abated within a reasonable time stipulated by him.

(b) Where the public is exposed to immediate danger, the Fire Chief is hereby empowered and directed to order the immediate closing and vacating of the building or structure.

(Code 1965, §19.03(4); Ord 1-91, §1(19.03(4)), 1-9-91; Ord 23-09, §1, 1-13-09, Ord 25-18, §1, 2-27-18)

Cross reference(s)--Unsafe buildings, §4-181 et seq.

Sec. 6-8. Investigation of fires.

The Fire Department shall promptly investigate the origin, cause, and circumstances of all fires occurring in the jurisdiction of the City. If it appears that the cause of the fire may be the result of a criminal act, the Fire Department shall inform the Police Department and seek their assistance in determining the origin and cause of the fire.

(Code 1965, §19.03(6); Ord 1-91, §1(19.03(6)), 1-9-91; Ord 23-09, §1, 1-13-99; Ord 25-18, §1, 2-27-18)

Sec. 6-9. Inspections generally.

The Fire Chief or his/her designee shall provide for the inspection of every public building and place of employment in accordance with W.S.A. §101.14 and shall comply with the provisions thereof. The Fire Chief shall, on a time schedule to be determined by the Common Council, report information regarding these inspections. Violations identified during inspections shall be recorded and kept on file in accordance with W.S.A. §101.14. Owners or occupant who do not show for a scheduled inspection appointment may be charged a fee. Repeated inspections or re-inspections resulting from continued non-compliance may subject an occupancy or property to a re-inspection fee and/or remedies as outlined in §6-75 “Repeat violation rule”.

(Code 1965, §19.03(3); Ord 1-91, §1(19.03(3)), 1-9-91; Ord 23-09, §1, 1-13-09, Ord 25-18, §1, 2-27-18)

Sec. 6-10. Fire inspection required before occupancy.

No person shall occupy or change the occupancy of a building or structure covered under Wisconsin Administrative Code, SPS Chapters 350-365 the Wisconsin Commercial Building Code, or the locally adopted International Fire Code used by or for public assembly, industrial, institutional, multifamily, office, or mercantile purposes until such building or structure has been inspected by the Fire Department.

(Ord 25-18, §1, 2-27-18)

Sec. 6-11. Burning trash, rubbish, garbage, yard waste, etc.

(a) No person shall build, maintain or allow to be operated or maintained on a premises controlled by him/her, any waste burner, refuse burner, trash burner or other similar appliance unless such device is permitted with the approval of the Inspections Supervisor and the Fire Chief, or his/her designee.

(b) No person shall operate an outside incinerator, burn garbage, or leaves within the City.

(Code 1965, §19.04; Ord 1-91, §1(19.04), 1-9-91; Ord 23-09, §1, 1-13-99; Ord 25-12, §1, 3-7-12; Ord 25-18, §1, 2-
Sec. 6-12. Open outdoor fires, outdoor fireplaces, cooking fires and barbecue grills, kettles and outdoor hibachis.

(a) No open outdoor fires, including fires confined within outdoor fireplaces and outdoor cooking fires, with the exception of fires fueled by natural gas, propane or charcoal in commercially manufactured appliances or a non-commercially manufactured appliance approved by the Fire Chief or his/her designee, shall be started by any person unless a permit is first obtained from the Fire Department. No permit shall be granted for open burning for multifamily occupancies without separate private yards for each tenant, nor without the property owner's permission, in a public right-of-way, alley or other public thoroughfare.

1. Daily permits are available for bonfires, brush burns, wildland management burns, outdoor fireplaces and cooking fires.

2. Annual permits are available for recreational fires in outdoor fireplace appliances. (January 1 through December 31).

3. Annual and single day permits are valid 6:00 a.m. to 10:00 p.m. Sunday through Thursday, 6:00 a.m. to 12:00 a.m. Friday, Saturday, and any day/evening preceding a federal holiday.

4. No permit will be issued for any fire within ten (10) feet of any building, structure, fence, combustible material or property line.

5. Only those fuels and appliances approved by the Fire Chief or his/her designee shall be used.

6. Burning is to be attended at all times by a person at least eighteen (18) years of age, with an approved means of extinguishing the fire available for use at the location of the fire.

(b) Barbecue grills, kettles, outdoor hibachis.

1. Charcoal burners and other open-flame devices shall not be operated on combustible balconies or within ten (10) feet of combustible construction in all dwellings. Exceptions:
   a. Single family dwellings.
   b. Permanently piped natural gas fired barbecue grills, where dwellings, balconies, and decks are protected by automatic sprinkler system.

2. Cylinders having water capacities greater than 2½ lb. (1 kg) [nominal 1 lb. (0.5 kg) LP-Gas capacity] shall not be located on balconies above the first floor that are attached to a multiple family dwelling of three (3) or more living units.

(c) No person shall install, use or maintain a woodfire furnace, stove or boiler that is not located within a building intended for habitation by humans within the City limits. This prohibition shall apply to furnaces, stoves or boilers installed after the effective date of this ordinance.

(d) The Fire Chief or his/her designee shall have the authority to prohibit any and all open burning when atmospheric conditions or local circumstances make such fire hazardous. No burning will be allowed if wind conditions will cause smoke, embers or other burning materials to be carried towards any building or other combustible material, nor anytime the wind is in excess of nine miles per hour (9 m.p.h.) as measured by the Outagamie County Emergency Communication Center.

(Code 1965, §19.05(2); Ord 1-91, §1(19.05(2)), 1-9-91, Ord 136-01, §1, 8-20-01; Ord 135-05, §1, 11-22-05; Ord 23-09, §1, 1-13-09; Ord 55-16, §1, 8-9-16, Ord 25-18, §1, 2-27-18)

Sec. 6-13. Careless smoking prohibited.

(a) It is unlawful for any person, by reason of careless, willful or wanton conduct in smoking or in the use of lighters or matches in smoking to set fire to any bedding, carpet, curtains, draperies, furniture, household equipment or other goods or chattels or to any building.

(b) A plainly printed notice of the provisions of this section shall be posted in a conspicuous place in every sleeping room of every place renting rooms for the accommodations of the public. Such printed notices shall also be posted in any place of public assembly where smoking is permitted.

(Code 1965, §19.06(1), (2); Ord 1-91, §1(19.06(1), (2)), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-14. Lock box.

(a) Every newly constructed building, except one- and two-unit family dwellings or additions to an existing building previously without a lock box, shall be equipped with a lock box consistent with the specifications set forth in (c) within this section.

(b) When access to or within a structure or an area is unduly difficult because of secured openings or where
immediate access is necessary for life saving or firefighting purposes, the Fire Chief or his/her designee may require a lock box to be installed consistent with the specifications set forth in (c) within this section.

(c) The lock box shall be a type approved by the Fire Department and shall contain keys to gain necessary access as required by the Fire Department. The lock box shall be installed by the property owner at a location approved by the Fire Department. The lock box shall be installed within an appropriate time, as determined by the Fire Chief or his/ her designee.
(Ord 1-91, §1(19.21), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-15. Fire Department signs.

It shall be illegal for anyone to remove, mutilate or destroy any legally required sign posted by the Fire Department or required sign to be posted by the owner, manager or operator of any occupancy open to the public.
(Ord 1-91, §1(19.22), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-16. Fire alarms.

(a) Every public building, dwelling or place of employment containing either a manual, sprinkler activated or fire detector activated alarm system shall comply with this section.

(b) New or upgraded fire alarm systems at large buildings or buildings with multiple occupancies shall provide outside strobe lights indicating the occupancy or area of fire alarm activation and if applicable, the location of the Fire Department connection. The location of these strobe lights is to be determined by the Fire Chief or designee.

(c) The Fire Department will be contacted immediately upon activation of an alarm by on-site personnel or a monitoring agency so not to cause a delay in alarm. Any monitoring agency shall be licensed or approved by either Factory Mutual (FM) or Underwriters Laboratories (U.L.). All systems shall be maintained in operable condition as specified in the International Fire Code. If the alarm or fire sprinkler system becomes inoperative for any reason, the Fire Department shall be notified and the provisions of the International Fire Code, Section 901.7 and subsequent revisions shall apply.

(d) False alarms and fees.

(1) Words and phrases defined in §12-121 are used in the same sense in this section unless a different definition is specifically provided.

(2) If the Fire Department responds to a false alarm, the party responsible for the false alarm shall pay the city a fee according to the schedule of fees kept on file with the City Clerk’s Office.

(3) If the Fire Department is cancelled by the emergency communications center while responding to an alarm, the party responsible for causing the alarm may still be assessed the false alarm fee.

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

(5) The party responsible or the alarm user may appeal the assessment of a false alarm fee by submitting written documentation to the Fire Chief or designee within ten (10) business days after notification of the assessment of a fee. The Chief or designee must inform the alarm user of the decision in writing. If the alarm user further contests the Chief or designee’s decision, within ten (10) days of receiving the Chief or designee’s decision, the alarm user may seek review by the Safety and Licensing Committee by submitting a written notification to the City Clerk’s Office.
(Ord 1-91, §1(19.25), 1-9-91; Ord 7-95, §1, 2-1-95, Ord 65-99, §1, 9-19-99; Ord 117-06, §1, 1-1-07; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-17. Malls.

The mall manager or designee shall notify the Fire Department prior to any use of a mall common space for any intended use other than exiting. Examples of other uses would be trade shows, exhibitions, or public assemblies.
(Ord 1-91, §1(19.27), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-18. Violations.

It is unlawful for any person to violate any provision of this chapter or to fail to obey any rule, regulation or order of the Fire Chief or his/her designees.
(Ord 1-91, §1(19.28), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

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

Sects. 6-19 – 6-30. Reserved.
ARTICLE II. FIRE DEPARTMENT

Sec. 6-31. Generally.

The Fire Department shall be a paid department, consisting of such officers and members as the Common Council may establish from time to time. The Department shall be charged with providing response to fires, hazardous material spills, medical emergencies, rescue of people in distress and other dangerous conditions. The Department shall also provide for fire investigation, prevention, inspection, code compliance, and other services designed to maintain fire and life safety within the community.
(Code 1965, §4.08; Ord 23-09, §1, 1-13-09)

Sec. 6-32. Duties of Fire Chief.

It shall be the duty of the Fire Chief to:

(1) Direct the operation of the Fire Department subject to the rules and regulations which may be adopted by the Common Council or the Police and Fire Commission;

(2) Issue and enforce such orders as in his/her judgment may be best for the protection of property and the extinguishing of fires;

(3) Enforce all ordinances, rules and regulations of the Common Council governing the Fire Department;

(4) Report the condition of the Fire Department at the end of each year and make further reports when ordered to do so by the Common Council or the Police and Fire Commission;

(5) Report promptly to the Police and Fire Commission any member of the Fire Department who may have disobeyed his/her order or violated any of the laws or rules governing the Department;

(6) Keep a record and report to the Police and Fire Commission the absence of any member of the Fire Department from fires, together with any dereliction of duty or violation of any of the rules and regulations of the Department.

In the absence or disability of the Fire Chief, the Deputy Chief shall perform his/her duties.
(Code 1965, §4.09, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)
Sec. 6-33. Wearing of name tag and badge.

The members of the Fire Department of the City, when on duty, shall wear the badge or insignia and name tag of the office on the outside of the outermost garment, conspicuously displaying the badge and name tag so the entire surface thereof may be seen, except when caution may dictate that the badge and name tag should not be exposed.
(Code 1965, §4.04; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Secs. 6-34 – 6-42. Reserved.

ARTICLE III. PERMITS

Sec. 6-43. Required.

(a) It shall be unlawful for any person to use a building or premises or engage in any activities for which a permit is required by this code, without first having obtained such permit.

(b) Permits are required for the following:

(1) **Floor finishing** (required for floor finishing or surfacing operations exceeding three hundred fifty (350) square feet using Class I or Class II liquids).

(2) **Lumber yards** (where more than one hundred thousand (100,000) board feet of lumber is to be stored or used inside of the facility);

(3) **Vehicle tire rebuilding plants** (for any tire recapping or rebuilding operation);

(4) **Magnesium use** (for the melting, casting, heat treating machining or grinding of more than ten (10) pounds of magnesium per working day);

(5) **Cryogenic liquids** (for the production, storage or sale of cryogenic liquids);

(6) **Combustible fibers** (for the storage and handling of combustible fibers in quantities in excess of one hundred (100) cubic feet);

(7) **Dust explosion hazard** (for the operation of any grain elevator or bleacher, flour, starch or feed mill, malt house, wood flour manufacturing plant, or plant pulverizing aluminum, coal, cocoa magnesium, spices, sugar or other material producing dust which, if mixed with air in the proper portions becomes explosive and may be ignited by flame or spark);

(8) **Fumigation and thermal insecticidal fogging** (this process is not to start without a permit);

(9) **Flammable and combustible bulk storage** (storage in excess of fifty-five (55) gallons on permanent basis above or below ground);

(10) **Open burning** (where permits are required by the State or this code, §6-13);

(11) **Tents, membrane structure, canopies** (to operate or erect a tent or membrane structure or canopy in excess of two hundred (200)
(12) **Fireworks/pyrotechnic displays** (for the discharge of any fireworks as defined by W.S.A. §167.10. Such discharge shall conform to any state law or this code and any regulations);

(13) **Explosives**

a. Any person conducting blasting operations in the City shall notify the Fire Department of the time and location of the blast. Notification shall be made on proper forms provided by the State. A permit shall be obtained after notification and prior to blasting;

b. Any person storing explosive materials, as defined in Wisconsin Administrative Code, International Fire Code, Section 3302.1, in the city shall obtain a permit. Such explosives shall be stored in an approved manner;

(14) **Cellulose nitrate plastics:**

a. All retailers, jobbers and wholesalers storing or handling more than twenty-five (25) pounds of cellulose nitrate plastics shall obtain a permit from the Fire Chief;

b. A permit shall be obtained from the Fire Chief for the manufacture of articles of cellulose nitrate plastics, including the use of cellulose nitrate plastics in the manufacture or assembling of other articles;

c. Cellulose nitrate motion picture film (a person may not store, handle, or keep on hand more than twenty-five (25) pounds without obtaining a permit. A person may not sell, lease or otherwise dispose of any cellulose nitrate film to any person not having a permit issued by the Fire Chief or his/her designee to handle, use or display the film);

(15) **Recyclables storage** (any outside storage area, or warehouse used for the bulk storage of paper for sale or recycling);

(16) **Storage tanks**

a. Removal of underground storage tanks (UST) or above ground storage tanks (AST) in either commercial or residential properties as required by Wisconsin Administrative Code, SPS 310;

b. Upgrades of underground storage tanks (UST) or above ground storage tanks (AST) flammable/combustible liquid storage systems;

(17) **Installation, storage or use of liquid petroleum gases systems with a cumulative total of one hundred twenty-five (125) gallons or larger water capacity.**

(Ord 17-90, 2-21-90; Ord 1-91, §1(19.26), 1-9-91; Ord 8-95, §1, 2-1-95; Ord 9-95, §§1, 2, 2-1-95, Ord 65-99, §1, 9-19-99, Ord 137-01, §1, 8-20-01; Ord 23-09, §1, 1-13-09; Ord 25-12, §1, 3-7-12; Ord 25-18, §1, 2-27-18)

Sec. 6-44. **Temporary special permits.**

When a temporary hazardous situation is anticipated for conditions not otherwise regulated by this code, the Fire Chief is authorized, based on applicable data, to issue a temporary special permit for the duration of the hazard.

(Ord 1-91, §1(19.26(2)), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-45. **Application.**

Applications for permits shall be made to the Fire Chief and shall include the applicant's answers in full to inquiries set forth on such forms. Applications for permits shall be accompanied by such data as required by the Fire Chief and fees as may be required by his/her jurisdiction.

(Ord 1-91, §1(19.26(3)), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-46. **Fees.**

Fees shall be established for the permits, certificates, approvals and other functions performed under this code and shall be payable to the City. Such fees shall accompany each application for such permit, approval, certificate or other fee-related code provision. The fee amount for the required permits, certificates, approvals and other functions performed under this code shall be maintained on a schedule filed with the City Clerk.

(Ord 1-91, §1(19.26(6)), 1-9-91; Ord 108-92, §1, 10-7-92; Ord 10-95, §1, 2-1-95, Ord 65-99, §1, 9-19-99, Ord 138-01, §1, 8-20-01; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)
Sec. 6-47. Issuance and posting.

(a) The Fire Chief or his/her designee shall review all applications submitted and determine compliance with applicable provisions of this code and issue or revoke permits based on his/her findings as required.

(b) A copy of the permit shall be posted or otherwise readily accessible at each place of operation or carried by the permit holder as specified by the Fire Department.
(Ord 1-91, §1(19.26(4), (5)), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-48. Fee for failure to obtain permit.

The fee for failure to obtain a permit required under §6-43 of this Code is triple the permit fee described in that section when a permit is obtained. Payment of any fee shall not relieve any person of the penalties that may be imposed for violation of this chapter.
(Ord 11-95, §1, 2-1-95; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-49. Non-resident fees for Fire Department services.

When the Fire Department is called upon to extinguish a vehicle fire or extricate a person, and where the subject vehicle is registered to an owner with a permanent address located outside of the Appleton city limits, the registered owner shall pay a service fee to the City, the amount of which shall be on file with the City Clerk.
(Ord 17-06, §1, 2-21-06; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-50. Recovery of costs associated with technical rescue responses.

(a) Technical rescue reimbursement for costs of emergency services response. A technical rescue response includes, but is not limited to, structural collapse, confined space, trench rescue, water rescue, ice rescue, or rope rescue. Emergency service response includes, but is not limited to, fire service, emergency medical service and law enforcement. Any person or property owner who necessitates a technical rescue response may be responsible for reimbursement to the responding agencies for the actual and necessary expenses incurred in carrying out their duties under this article. Actual and necessary expenses may include, but not be limited to, replacement of equipment, maintenance of the equipment specific to the incident, costs incurred in the procurement and use of specialized equipment specific to the incident, and charges associated with personnel and equipment necessary for the technical rescue response.

(b) Appeal. A person or property owner has the right to appeal the assessment of charges for an emergency service response. Any person or property owner appealing the assessment of charges shall file a written objection with the Fire Chief within thirty (30) days of receiving the bill. Upon receipt of the written objection, the matter shall be placed on the Agenda for the Safety and Licensing Committee at its next regularly scheduled meeting. The Safety and Licensing Committee shall make a recommendation to the Common Council, which shall grant or deny the request.
(Ord 142-11, §1, 6-7-11; Ord 25-18, §1, 2-27-18)

Secs. 6-51 – 6-55. Reserved.

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ARTICLE IV. STANDARDS AND REQUIREMENTS

Sec. 6-56. Adoption of codes and standards.

(a) The state codes listed in this section are hereby adopted by reference and made a part of the City Fire Prevention Code. For the purposes of this section, these provisions are adopted to enable the Fire Department to note any violations of such codes and to report those violations to the appropriate community service inspectors. The Fire Inspectors shall have the authority to cite such violations on fire inspections.

1. General Hazard on Fire Prevention, Wisconsin Administrative Code, SPS chapter 314;

2. General Orders on Existing Buildings, Wisconsin Administrative Code, SPS chapters 375 to 379;

3. Wisconsin Administrative Code, Wisconsin State Electrical Code, SPS Chapter 316;


5. Elevator Code, Wisconsin Administrative Code, SPS chapter 318;

6. Existing Building Code, Wisconsin Administrative Code, SPS chapter 370;


Overall enforcement responsibility is equally shared by the Building Inspection Division and the Fire Department. Primary responsibility for particular sections of the above provisions shall be as indicated in the Wisconsin Administrative Code.

(b) The International Fire Code 2015 Edition, hereinafter “IFC” is hereby adopted as though fully set forth herein, with the following exceptions:

1. Chapter 1 and Chapter 57 are not included in the adoption of the 2015 edition of the IFC.

2. Appendices A, J, K, L, and M are not included as part of the adoption of the 2015 IFC.

(c) The following editions of the National Fire Protection Codes and Standards are hereby adopted by reference and made part of the City Fire Prevention Code with the same force and effect as though set forth herein in full:

NFPA 11, Low Expansion Foam, 2002 Edition;

NFPA 12, Carbon Dioxide Extinguishing Systems, 2000 Edition;


NFPA 13R, Sprinkler Systems in Residential Occupancies up to and including Four Stories in Height, 2007 Edition;

NFPA 14, Standpipe Private Hydrant and Hose Systems, 2007 Edition;


NFPA 17, Dry Chemical Extinguishing Systems, 2002 Edition;


NFPA 20, Installation of Stationary Pumps, 2007 Edition;

NFPA 24, Private Fire Service Mains, 2007 Edition;


NFPA 33, Spray Application Using Flammable or Combustible Materials, 2007 Edition;

NFPA 34, Dipping and Coating Processes Using Flammable or Combustible Liquids, 2007 Edition;

NFPA 50, Bulk Oxygen Systems at Consumer Sites, 2001 Edition;

NFPA 50A, Gaseous Hydrogen Systems at Consumer Sites, 1999 Edition;


NFPA 51B, Welding, Cutting, Other Hot Work, 2003 Edition;


NFPA 55, Compressed and Liquefied Gases in Portable Cylinders, 2003 Edition;

NFPA 69, Explosion Prevention Systems, 2002 Edition;

NFPA 72, National Fire Alarm Code, 2002 Edition;


NFPA 105, Standard for the Installation of Smoke-Control Door Assemblies, 2007 Edition;

NFPA 204, Smoke and Heat Venting, 2002 Edition;


NFPA 430, Liquid and Solid Oxidizers, 2000 Edition;


NFPA 654, Prevention of Fire and Dust Explosions from Manufacturing Combustible Particulate Solids, 2006 Edition;

NFPA 1123, Fireworks Display, 2006 Edition;

NFPA 1124, Fireworks and Pyrotechnic Articles, 2006 Edition;

NFPA 1126, Use of Pyrotechnics before a Proximate Audience, 2006 Edition;

NFPA 1221, Communications, Emergency Services, 2007 Edition;


NFPA 1962, Standard for the Inspection, Care, and Use of Fire Hose, Couplings and Nozzles; and the Service Testing of Fire Hose, 2003 Edition;


(c) Any fire prevention issue not herein addressed by code or adopted standards will be addressed on the basis of current accepted National Fire Protection Association Standards.

(Ord 1-91, §1(19.02), 1-9-91; Ord 12-95, §1, 2-1-95, Ord 65-99, §1, 9-19-99, Ord 181-01, §1, 10-22-01, Ord 96-02, §1, 6-25-02; Ord 23-09, §1, 1-13-09; Ord 124-11, §1, 4-26-11; Ord 25-12, §1, 3-7-12; Ord 25-18, §1, 2-27-18; Ord 70-18, §1, 8-7-18)

Cross reference(s) – Buildings and building regulations, Chapter 4.

Sec. 6-57. Automatic sprinkler systems.

(a) Intent of section. The intent of this section is to provide a means for the automatic extinguishment of fires in buildings or parts of buildings which because of their size, construction or occupancy or lack of suitable protection equipment, constitute a special fire hazard to life or property and an excessive burden upon the fire extinguishing facilities of the Fire Department.

(b) Definitions. For the purpose of this section, the following definitions shall be applicable:

Approved shall mean that the material, workmanship and installation of the sprinkler system complies with the regulations as set down in the National Fire Protection Association standards for the installation of automatic sprinkler systems in effect at the date of installation and approved by Fire Chief.

Area shall mean the gross ground floor area of a
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building or when a building is divided by approved firewalls, each section so divided shall be considered an area.

Authority having jurisdiction shall be the Fire Chief or whomever the Chief designates to enforce this chapter, the laws of the state pertaining to prevention of fires and public safety and approving equipment, installation or procedure as outlined in National Fire Protection Association Codes and Standards.

Automatic sprinkler equipment shall mean a system of water supply pipes and orifices to apply water to a fire when activated by an automatic, manual or remote control device.

Fire-resistive construction shall mean a building is of fire resistive construction if all the walls, partitions, piers, columns, floors, ceilings, roof and stairs are built of noncombustible materials as specified in Wisconsin Commercial Building Code.

Housing for the elderly shall mean a residential occupancy building where the occupancy is limited to primarily elderly people meeting specific age criteria as specified by the financing or owning agency.

Institutional buildings shall mean and include convents, monasteries, children's homes, homes for the aged, nursing homes, convalescent homes, asylums, mental hospitals and jails.

(c) Buildings and areas where required. Every building constructed or structurally altered shall have an approved automatic sprinkler system installed and maintained when occupied in whole or part for the following purposes:

(1) Multifamily dwellings of three (3) units or more exceeding four thousand eight hundred (4,800) square feet per floor and dormitories, except housing for the elderly, shall include the protection of all areas within the building by an automatic fire sprinkler system complying with Standard 13 of the National Fire Protection Association and equipped with residential type sprinkler heads in the living units.

(2) Educational Group E occupancies:
   a. In basements, kitchens, shops and other spaces where combustibles are stored or handled.
   b. In other than fire resistive buildings.
   1. Ten thousand (10,000) square feet or over.
   2. Two (2) stories and up exceeding six thousand (6,000) square feet in area.
   3. Three (3) stories and up in height.

(d) Application to existing buildings. Where the Fire Chief finds that by reason of construction or highly combustible occupancy, existing buildings constitute a severe fire hazard to its occupants or to adjoining property, the provisions of this section will apply.

(e) System types and approval of plans. Approved automatic sprinkler equipment shall be installed, connected to an adequate water supply with sprinkler heads, valves and auxiliary equipment of standard types suitable for the individual building to be protected as determined by adopted Standard 13, of the National Fire Prevention Association. Automatic sprinkler systems shall be designed with a minimum five (5) psi water supply safety factor. No automatic sprinkler equipment shall be installed or altered in a building until plans have been submitted to fire prevention and reviewed. Four (4) copies of plans shall be submitted approved plans stamped "Conditionally Approved" and three (3) copies shall be returned to owner and the other kept on file at the Fire Department.

(f) Alternative materials and methods.

(1) The Fire Chief, on notice to the Inspections Supervisor, may approve any alternate material or method, provided he/she finds that the proposed design, use or operation satisfactorily complies with the intent of this code and the material, method of work performance or operation is, for the purpose intended at least the equivalent of that prescribed in this section in quality, strength, effectiveness, fire resistance, durability and safety, provided, however, that any approval under the authority herein contained shall be subject to the approval of the building official whenever the alternate material or method involves matters regulated by the Wisconsin Administrative Code.

(2) The Fire Chief may require tests as proof of compliance with the intent of this section, such tests to be made by an approved agency at the expense of the person requesting approval of the alternate material or method of construction.

(3) If technical expertise is unavailable within the Department because of new technology, process, products, facilities, materials and uses attending the design, operation or use of
a building or premises subject to the inspection of the Department, the Fire Chief may require the owner or the person in possession or control of the building or premises to provide without charge to the Department, a technical opinion and report. The opinion and report shall be prepared by a qualified engineer, specialist, laboratory or fire-safety organization acceptable to the Fire Chief and the owner and shall analyze the fire safety properties of the design, operation or use of the building or premises and the facilities and appurtenances situated thereon, and prescribe the necessary recommended changes.

(g) Inspection. Every automatic sprinkler system required under this section shall be tested and inspected upon installation, according to the National Fire Protection Association Standards in effect at time of installation.

(h) Maintenance.

(1) The owner or occupant of a building containing the required automatic sprinkler system shall maintain the system in an operative condition at all times. The occupant of the building shall notify the Fire Department prior to interrupting this system for any reason or at the time it is withdrawn or its service interrupted or curtailed. Testing and maintenance of such systems shall be performed according to Standard 25, of the National Fire Protection Association. Copies of all tests results shall be furnished to the Fire Chief of the Fire Department.

(i) Water. Where an automatic sprinkler system is required, the supply shall be from the city water supply. Testing of the water supply shall be conducted by using the two (2) hydrants closest to the property being sprinkled. Tests over two (2) years old will not be accepted unless approved by the Fire Chief after taking into consideration growth, size and changes in the general area. The sprinkler contractor will take all readings with the Director of Public Works approval and assistance in hydrant use. The Fire Chief will be informed of all testing twenty-four (24) hours in advance and be given an opportunity to observe testing.

(Code 1965, §19.10; Ord 1-91, §1(19.10), 1-9-91; Ord 176-93, §1, 10-19-93; Ord 13-95, §1, 2-1-95; Ord 14-95, §1, 2-1-95; Ord 120-96, §1, 12-18-96, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-58. Welding and cutting operations.

In addition to the International Fire Code, all welding and cutting operations shall also comply with this code.

(a) Before welding or cutting operations have begun in areas not designed or approved for that purpose, specific authorization shall be obtained from the owner of the premises or his duly authorized agent.

(b) When welding or cutting operations are performed above or within thirty-five (35) feet of construction or material exposed to the operation or within thirty-five (35) feet of floor, ceiling or wall openings so exposed:

(1) Such construction or combustible material shall be protected by noncombustible shields or covers from possible sparks, hot metal or oxide;

(2) Such floor, ceiling or wall shall be protected by noncombustible shields or covers.

(c) A firewatcher shall be provided to watch the fire, make use of portable fire extinguishers or fire hose and perform similar fire prevention and protection duties. The firewatcher shall remain on the job at least thirty (30) minutes after the welding or cutting operation has been completed to insure that no fire exists. A signed inspection report attesting to that fact shall be filed and available for inspection by the Fire Marshal.

(d) One (1) or more portable fire extinguishers of approved type and size shall be kept at the location where welding or cutting is to be done.

(e) Welding or cutting shall not be done in or near rooms or locations where flammable gases, liquids or vapors, lint, dust or loose combustible stocks are present when sparks or hot metal from the welding operation may cause ignition or explosion of such material.

(f) Except as otherwise provided in this section, welding or cutting shall not be performed on containers and equipment which contain or have contained flammable liquids, gases or solids until these containers and equipment have been thoroughly cleaned or made inert or purged.

(g) Hot tapping may be permitted on tanks or pipelines by the owner-operator thereof.

(h) Sprinkler protection shall not be shut off while welding or cutting work is being performed. When welding or cutting is being done close to automatic heads, sheet asbestos or damp cloth guards may be used to shield the individual heads but shall be removed when the work is completed.

(Code 1965, §19.08; Ord 1-91, §1(19.08), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)
Sec. 6-59. Outside storage of recyclables and building material.

Scrap or old lumber and old building material shall not be stored or kept in a residential area. Storage of scrap lumber or other materials in other than residential areas shall be handled to conform to recognized safe practices for lumber yard storage of IFC. Recyclables stored outside shall conform to IFC.
(Code 1965, §19.09; Ord 1-91, §1(19.09), 1-9-91; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-60. Smoke alarms.

(a) Definitions. For purposes of this section, the following definitions shall apply:

Dwelling shall mean a structure or part of a structure providing complete, independent living facilities for one (1) or more persons, including permanent provisions for sleeping, eating, cooking and sanitation.

Sleeping area shall mean the area of the unit in which the bedrooms or sleeping rooms are located. Bedrooms or sleeping rooms separated by another use area such as a kitchen or living room are separate sleeping areas, but bedrooms or sleeping rooms separated by a bathroom are not separate sleeping areas.

Smoke alarm shall mean a device which detects particles or products of combustion other than heat.

(b) Location and installation of smoke alarms.

(1) Each dwelling unit shall be provided with a minimum of one (1) approved smoke alarm installed in a manner and location consistent with its listing. The Fire Department Fire Prevention Division can be contacted for recommendations when an owner is concerned about the installation and number of smoke alarms.

(2) All existing dwelling units must meet the requirement of the State of Wisconsin Uniform Dwelling Code, Wisconsin Administrative Code, SPS 321.09 and 328.01 Smoke Detectors. Each dwelling unit shall be provided with a minimum of one (1) approved, listed and labeled smoke alarm sensing visible or invisible particles of combustion, installed in a manner and location consistent with its listing.

(c) Approval. A smoke alarm or heat detector required under this section shall be approved by Underwriter's Laboratories, Factory Mutual or any other comparable testing firm.

(d) Department inspection and order. Inspection of new construction will be carried out by the Division of Inspections at its final inspection.

(e) Conveyance of property. No person shall convey any real property which includes a dwelling unit to another unless there are installed in the dwelling unit approved smoke alarms in accordance with (d) above. Any purchaser of real property found not to be in compliance with this subsection may bring an action in circuit court for damages. A violation of the provisions of this subsection shall not affect the conveyance of title or possession to the affected property.
(Code 1965, §19.12; Ord 1-91, §1(19.12), 1-9-91; Ord 176-93, §1, 10-19-93; Ord 120-96, §1, 12-18-96, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09; Ord 25-12, §1, 3-7-12; Ord 25-18, §1, 2-27-18)

Sec. 6-61. Discharge of hazardous materials.

(a) Prohibited discharges. No person shall discharge or cause to be discharged, leaked, leached or spilled upon any public or private street, alley, public or private property, or onto the ground, surface waters, subsurface waters, or aquifers, or within the city, except those areas specifically licensed for waste disposal or landfill activities and to receive such material, any explosive, flammable or combustible solid, liquid or gas, any radioactive material at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment.

(b) Spill notification. Immediately upon discovery of a discharge involving any explosive, flammable or combustible solid, liquid or gas, any radioactive material at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment the property owner, equipment operator, or discovering person shall notify the Appleton Fire Department of the discharge of a hazardous material.

(c) Responsibility for containment, cleanup and restoration. Any person in violation of (a) above shall, upon direction of any Fire Department officer, begin immediate actions to contain, cleanup and remove to an approved repository the offending material(s) and restore the site to its original condition, with the offending person being responsible for all expenses incurred. If any person fails to engage the necessary men and equipment to comply or to complete the requirements of this section, the office of the Fire Chief may order the required actions to be taken by public or private sources and allow the recovery of any and all costs incurred by the City as required by (d) below.
(d) **Reimbursement for costs of emergency services response.** Emergency service response includes, but is not limited to, fire service, emergency medical service and law enforcement. A person who possesses or controls a hazardous substance which is discharged or who causes the discharge of a hazardous substance shall be responsible for reimbursement to the responding agencies for the actual and necessary expenses incurred in carrying out their duties under this article. Actual and necessary expenses may include, but not be limited to, replacement of equipment damaged by the hazardous material, cleaning, decontamination and maintenance of the equipment specific to the incident, costs incurred in the procurement and use of specialized equipment specific to the incident, specific laboratory expenses incurred in the recognition and identification of hazardous substances in the evaluation of response, decontamination, cleanup and medical surveillance, and incurred costs in future medical surveillance of response personnel as required by the responding agency's medical advisor.

(e) **Site access.** Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to Fire Department officers and staff and to Police Department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.

(f) **Public protection.** If any prohibited discharge occurs that threatens the life, safety or health of the public at, near or around the site of a prohibited discharge, and the situation is so critical that immediate steps must be taken to protect life and limb, the Fire Chief, his/her assistant or the senior police official on the scene of the emergency may order an evacuation of the area or take other appropriate steps for a period of time until the Common Council can take appropriate action.

(g) **Enforcement.** The Fire Chief, as well as the police officers, shall have authority to issue citations or complaints under this section.

(h) **Civil liability.** Any person in violation of this section shall be liable to the City for any expenses incurred by the City or loss or damage sustained by the City by reason of such violations. 

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

Sec. 6-62. Miscellaneous standards.

(a) Interior finishes, decorative materials and furnishings shall comply with International Fire Code,

Chapter 8.

(b) Flame retardant solutions, processes and applicators must be approved by the Fire Chief.
(Ord 1-91, §1(Appendix), 1-9-91; Ord 16-95, §1, 2-1-95, Ord 65-99, §1, 9-19-99; Ord 23-09, §1, 1-13-09)

Sec. 6-63. Fireworks and pyrotechnic devices.

(a) **Definition:** For the purpose of this section the following definition shall be applicable:

"Fireworks shall include all items under W.S.A. sec. 167.10(1) (intro), (e), (f), (i), (j), (k), (l), (m) and (n)."

(b) The provisions in this section shall apply to places where fireworks are stored or handled. Such premises shall be adequately equipped with fire extinguisher approved by the Fire Chief. Smoking is prohibited where fireworks are stored or handled.

(c) Every wholesaler, dealer or jobber keeping, storing, or handling fireworks of any description within the City shall notify the Fire Chief immediately upon receipt of such fireworks for the removal thereof from one (1) location to another and shall indicate the location where such fireworks are stored. No such fireworks shall be stored in any building used for dwelling purposes or in any building situated within fifty (50) feet of any building used for dwelling purposes, or in any place of public assembly, or within fifty (50) feet of any gasoline pump, gasoline filling station, or gasoline bulk station, or in any building in which gasoline or flammable liquid is sold in quantities in excess of one (1) gallon. The storage buildings for fireworks shall conform to Standard 1124 of the National Fire Protection Association Standards and Codes.

(d) This section shall prohibit the use of any pyrotechnic device indoors of an occupancy without a permit from the Fire Chief. Such permits will not be issued for any event in an unsprinkled occupancy. Permit applications will be made in writing seven (7) days in advance of the date of the display.

(e) The use of the pyrotechnic device shall be handled by a competent adult operator and shall be of such composition, character and be located, discharged or fired as in the opinion of the Fire Chief shall not be hazardous to property or endanger any persons.

(f) The display, storage and discharge of fireworks shall be regulated by and comply with all IFC, NFPA, state and local codes and nationally recognized standards.

(g) The outdoor use of pyrotechnic devices shall be regulated by §10-5 of this Code and W.S.A. §167.10.
(Ord 1-91, §1(19.18), 1-9-91; Ord 34-92, §2, 3-18-92; Ord 17-95, §1, 2-1-95, Ord 65-99, §1, 9-19-99; Ord 23-09, §1,
Sec. 6-64. Posted occupant load.

(a) Every room or space that is an assembly occupancy shall comply with International Fire Code.

(b) The number of persons in any building or portion thereof shall not exceed the amount determined as specified in the State building code, as surveyed by the Supervisor of Inspections, the Fire Chief, or his/her designee.

(c) No person shall permit overcrowding or admittance of any person beyond the approved capacity of any place of public assembly as specified above. The Fire Chief, upon finding any overcrowding conditions or obstruction in aisles, passageways or other means of egress or upon finding any condition which constitutes a serious menace to life, shall cause the performance, presentation, spectacle or entertainment to be stopped with the assistance of the Police Department until such condition or obstruction is corrected. The manager or person in charge of the premises shall be responsible for preventing overcrowding.

Sec. 6-65. Fire apparatus access roads.

(a) Definitions. For the purpose of this section, the following definitions shall be applicable:

- **Fire apparatus access road** means a hard surface designated and maintained to support the imposed loads of fire apparatus and shall be maintained so as to provide all-weather driving capabilities and have a minimum of thirteen (13) feet six (6) inches in vertical clearance.

- **Street** means any legally established public thoroughfare or all weather hard surface area thirty (30) feet or more in width unless otherwise approved by the Fire Department, whether designated or not by name such as avenue, boulevard, circle, court, drive, lane, place, road or way within fifty (50) feet of the building and maintained so as to provide all-weather driving capabilities and have a minimum of thirteen (13) feet six (6) inches in vertical clearance.

(b) Fire apparatus access roads shall be provided according to the International Fire Code and this ordinance.

(c) Multi-family residential projects having more than fifty (50) dwelling units shall be provided with a minimum two (2) separate and approved streets or approved Fire Department access roads.

(d) When conditions prevent the installation of an approved fire apparatus access road, the Fire Chief may permit the installation of a fire protection system in lieu of a road, provided the system or systems are not otherwise required by this or any other code.

Sec. 6-66. Atrium furnishings.

(a) Atriums are defined as a floor opening two (2) or more stories that are covered at the top of the series of openings and is used for purposes other than an enclosed stairway, elevator hoist way or utility shaft used for plumbing, electrical, air conditioning or communication facilities.

(b) All decorative materials in atriums shall be noncombustible or shall be flame retardant treated and be so maintained. Devices generating an open flame shall be approved by the Fire Chief prior to use.

Sec. 6-67. Working plans of suppression/detection and control systems.

(a) Working plans of all fire suppression, detection and control systems shall be submitted to the Fire Department Prevention Division in duplicate, before any equipment is installed or remodeled. Deviation from approved plans will require permission of the authority having jurisdiction.

(b) Fire protection system plans shall be drawn to an indicated scale of not less than 1/8” on sheets of uniform size with a plan of each floor or section. Plans must be easily duplicated and shall show all pertinent information as required by NFPA standards for plan submittals.

Sec. 6-68. Plan review fee structure and requirements.

A schedule of plan review fees shall be maintained in the City Clerk’s Office. This schedule specifies the fees for plan examination and approval for projects located within the city of Appleton.

Note: If the property is subject to state plan review, the additional fee required under Wisconsin Administrative Code, SPS Table 302.31-3 will be added to the appropriate municipal fee.

(1) **Miscellaneous fee.** The miscellaneous fee shall be assessed for submission of plans for non-water based fire extinguishing systems,
spray booth fire suppression systems and standpipe and hose systems. The miscellaneous fee will apply to such systems that are submitted separately from the automatic fire sprinkler system and/or fire alarm system. Where the plans for the automatic fire sprinkler systems and/or fire alarm systems are submitted with, for example, the kitchen exhaust hood fire suppression system plans, the fees will be based on the square footage of the project and no miscellaneous fee will be charged for review of plans of non-water based extinguishing systems.

(2) **Multiple identical buildings.** In order to qualify for the multiple identical building fee, all buildings included in the project must be identical, and plans for such buildings must be submitted at the same time. The fee for submittal of plans for the first building shall be determined in accordance with the fee schedule on file with the City Clerk’s Office. The fee for each remaining identical building shall be twenty-five percent (25%) of the appropriate fee.

(3) **Shell buildings.** When an application is submitted for a property where only the shell of the property has been completed, the fee will be calculated at fifty percent (50%) of the appropriate fee set forth in the fee schedule on file with the City Clerk’s Office on the basis of the total gross area of the building. When an application is submitted for the construction of the interior of a building where the shell has been previously granted a permit, the fee for the interior construction shall be calculated at fifty percent (50%) of the total gross area as set forth in the fee schedule on file with the City Clerk’s Office. Should the interior be completed in sections, the fee shall be calculated at the percentage of the area being completed, cumulative interior fee not to exceed fifty percent (50%) of the total gross area as set forth in the fee schedule on file with the City Clerk’s Office.

(4) **Fire doors/shutters.** Fire door/shutter plan review and inspection shall be assessed an initial minimum fee as indicated on the fee schedule for the first fire door/shutter and as indicated on the fee schedule for each additional door/shutter. This fee does not apply to fire doors/shutters already reviewed as part of an ongoing project.

(5) **Re-submission fee.** A fee shall be assessed for review of plans submitted following denial of plan approval.

(6) **Re-inspection fee.** The inspection of work performed under an approved plan is included in the fee for plan reviews. This fee does not include any re-inspections required because the inspected work failed to pass inspection. A re-inspection fee equaling twenty-five percent (25%) of the original plan review fee, fifty dollars ($50.00) minimum, shall be assessed due to system failure during the initial inspection.

(7) **Fee for initiation without a permit.** Penalty for failure to obtain a permit before starting work shall automatically double the applicable fees, and all work shall cease until the proper permits have been attained.

(Ord 126-01, §1, 7-18-01; Ord 23-09, §1, 1-13-09; Ord 25-12, §1, 3-7-12; Ord 25-18, §1, 2-27-18)

Sec. 6-69. Maintenance, approval and registration of installed fire protection systems.

(a) **Maintenance.** All sprinkler systems, fire hydrant systems, standpipe systems, fire alarm systems, portable fire extinguishers, smoke and heat ventilators, smoke-removal systems and other fire protection or extinguishing systems or appliances shall be maintained in an operative condition at all times and shall be replaced or repaired where defective. Fire-protection or extinguishing systems coverage, spacing and specifications shall be maintained in accordance with recognized standards at all times. Such systems shall be extended, altered or augmented as necessary to maintain and continue protection whenever any building so equipped is altered, remodeled, added to or changes occupancy hazard. All additional, repairs, alterations and servicing shall be in accordance with recognized standards and copies of such work sent to Fire Prevention of the Fire Department.

(b) **Approvals.** All fire extinguishing systems, including automatic sprinkler systems, classes I, II, III combined stand pipes, Halon systems, and other special automatic extinguishing systems and basement pipe inlets, shall be approved in accordance with §6-71 and shall be subject to periodic tests as may be required. A copy of all test results of the above systems must be provided to the Fire Chief or his/her designee upon completion of the testing. The location and size of all Fire Department hose connections shall be approved by the Fire Chief or his/her designee.

(c) (1) **Registration.** All installers of fire protection components, including, but not limited to, agencies monitoring alarm integrity, shall
register with the Fire Department pertinent contact information including, but not limited to, address, phone number and name of responsible person. Registry information shall be updated with AFD within ten (10) days of any change to information previously provided.

(2) A fee may be assessed to any registered installer and/or monitoring agent deemed responsible for causing a false alarm. Said fee will be billed to the responsible party, if not the alarm user, and will be that amount indicated in the false alarm fee schedule. Failure to pay fees could result in failure to obtain permit(s) for future work. An appeal of a false alarm assessment can be made by writing the Fire Chief or his/her designee within ten (10) business days after notification of the fee. Contesting the Chief’s decision involves a review by the Safety and Licensing Committee by submitting a written notification to the City Clerk’s Office.

(Ord 65-99, §1, 9-19-99, Ord 126-01, §1, 7-18-01; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-70. Notification of special public assembly events.

(a) For the purpose of this section, public assembly is defined as an event which exceeds one hundred (100) people.

(b) Except as provided in (d), notification must be provided to the Department within five (5) business days prior to the holding of special public assembly events which involves the use of buildings or spaces not approved for public assembly in accordance with the Wisconsin State Building Code and the IFC.

(c) Except as provided in (d), notification must be provided to the Department within five (5) business days prior to the holding of special public assembly events which involves the placement of temporary seating in an area not otherwise approved for such seating.

(d) Notification is not required if a plan indicating occupancy capacity, seating arrangements, location and width of exit ways and aisles is submitted to the Fire Department and pre-approved by the Fire Chief or his/her designee.

Note: Building owners may pre-approve a building or space within the building for special events by submitting an approved plan. This exception allows for multiple special events.

(Ord 65-99, §1, 9-19-99, Ord 126-01, §1, 7-18-01; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-71. Fire division walls and occupancy separation wall identification.

Building owners shall identify fire division walls and occupancy separation walls in accordance with the Wisconsin Commercial Building Code.

(Ord 65-99, §1, 9-19-99, Ord 126-01, §1, 7-18-01; Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

Sec. 6-72. Repeat violation rule.

Whenever the Fire Chief or his/her designee shall find in any building, upon inspections or re-inspections, a repeat violation involving a fire detection, life safety component, or suppression system which is defective, inoperative, improperly maintained or operated the Fire Chief or designee may order the following remedies and/or a re-inspection fee.

(a) If the system includes one (1) or more exit light(s) which have not been illuminated during inspections, it may be ordered that any or all of the exit lights in such premises be equipped with self-illuminating lights or light equipped with light emitting diodes (LEDs).

(b) If the system includes one (1) or more self-closing fire door(s), any of which have been found to have been held open with non-approved hold open devices during inspections, it may be ordered that any or all of the fire doors in such premises be equipped with an automatic closing device.

(c) If the system includes one (1) or more battery operated smoke detector(s) which have been found to be inoperative during inspections, it may be ordered that the premises be equipped with long life (5 – 10 year battery life) smoke detectors.

(1) If the same occupancy is subsequently found to have inoperative smoke detector(s) it may be ordered that the smoke detectors be hardwired into the electrical service of the premises.

(2) If the premise is found to have no operable smoke detectors, the Fire Department may install smoke detectors and may charge the owner for the actual cost of the detectors and installation.

(d) If the system includes emergency exit doors which, during hours of occupancy, have been found to be secured or locked with bolts, bars, chains, padlocks, or locking devices other than the primary locks, it may be ordered that such bolts, bars, chains, padlocks, or additional locking devices be immediately removed; and it
may be further ordered that all emergency exit doors within the premises be equipped with panic door release hardware.

(e) This subsection shall not be construed as a limitation upon the powers of the Chief or his designee to issue orders for corrections of violations nor shall this subsection be construed as a limitation upon any of the powers of the Chief under any applicable provision of the City of Appleton Municipal Code, Wisconsin Administrative Code or the Wisconsin Statutes.
(Ord 23-09, §1, 1-13-09; Ord 25-18, §1, 2-27-18)

(The next page is 491.)
Chapter 7
Health and Sanitation

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premature death and disability among nonsmokers.

f. Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort to nonsmokers.

(2) This ordinance is adopted for the purpose of protecting the public health, safety, comfort and general welfare of the people of the City of Appleton, especially recognizing the rights of nonsmokers who constitute a majority of the population; educating citizens affected by this ordinance; and assisting owners, operators; and managers in maintaining compliance.

(c) Prohibition of smoking in indoor public places. Except as otherwise provided, it shall be unlawful for any person to smoke tobacco products in indoor public places, including, but not limited to, the following:

(1) Elevators and enclosed stairwells, including those within City parking ramps.

(2) Public forms of transportation, including, but not limited to, motor buses, taxicabs, or other public passenger vehicles.

(3) Theaters, libraries, museums, auditoriums, sports arenas, convention halls which are used by or open to the public.

(4) Any childcare facility. Incorporated herein by reference are the following Wisconsin statutory and administrative code sections and any amendments or renumbering thereof: Sec. 101.123(1)(ad) and (2)(bm), Wis. Stats.; Secs. HFS 45.02(4), 45.06(8)(g), 46.03(13), 46.06(2)(h), and 46.08(2)(c), Wis. Adm. Code.

(5) Retail stores.

(6) Health care facilities.

(7) Waiting rooms, hallways, rooms of health care laboratories.

(8) Waiting rooms, hallways, rooms in offices of any physician, dentist, psychologist, chiropractor, optometrist or optician, or other medical services provider.

(9) Meeting and conference rooms in which people gather for educational, business, professional, union, governmental, recreational, political or social purposes.

(10) Polling places.

(11) Service lobbies, waiting areas, and the common areas open to the public of financial institutions, business and professional offices, and multi-unit commercial facilities.

(12) Self-service laundry facilities.

(13) Enclosed, indoor areas of restaurants.

(14) Common areas of malls.

(15) Public bus and transfer point shelters.

(16) Common areas of building which contain three (3) or more rental units. Written Rental Agreements shall include reference to this subdivision.

(17) City buildings.

(18) City-owned or leased motor vehicles.

(19) Sports arenas.

(20) Taverns.

(21) Common areas in bed and breakfast establishments, hotels and motels.

(d) Prohibition of smoking in outdoor areas. It shall be unlawful for any person to smoke or use tobacco products in the following outdoor areas.

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

(Ord 59-17, §1, 9-12-17)

(2) Outside of the Appleton Public Library, on the sidewalk between the main entrance and public parking lot, extending from Appleton Street to Oneida Street.

(3) Outside of the Transit Center in the area, inclusive of sidewalk area, from the north edge of the Transit Center building to Washington Street and from Oneida Street to the west edge of the East Parking Ramp.

(4) City parks as posted and so designated by the
(e) **Prohibition of smoking in educational facilities.** It shall be unlawful for any person to smoke or otherwise use any tobacco products:

1. In all educational facilities and in or upon all other premises owned, rented by or under the control of a school board.

(f) **Prohibition of smoking in places of employment:**

1. It shall be unlawful for any person to smoke any tobacco products in all places of employment.

2. Every building which is a place of employment shall have at least one (1) entrance which is smokefree.

3. Each employer, operator, manager, lessee or other person having control of the place of employment shall make reasonable efforts to ensure a smokefree workplace for all employees and frequenters.

4. Within ninety (90) days of the effective date of this ordinance, each employer having a place of employment located within the City of Appleton shall adopt, implement and communicate written notice of the provisions of this ordinance to each employee.

(g) **Exceptions.** The following areas shall not be subject to the smoking restrictions of this section:

1. Retail tobacco stores.

2. Any stage of any theater when used in connection with any theatrical performance and so noticed in the program.

3. Bed and breakfast, hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided that not more than twenty-five percent (25%) of the rooms rented to guests are designated as smoking.

(h) **Enforcement.**

(1) The Health Officer or designee and the Chief of Police or designee shall have the power, whenever they may deem it necessary, to enter upon the premises named in this section to ascertain whether the premises are in compliance with this ordinance. A compliance time of not less than one (1) week shall be granted. Enforcement may be by citation, as permitted by Sec. 1-16.

(2) The proprietor, employer or other person in charge or premises regulated hereunder, upon either observing or being advised of a violation, shall make reasonable efforts to prevent smoking in prohibited areas by:

a. Approaching smokers who fail to voluntarily comply with this section and requesting that they extinguish their cigarette or tobacco product and refrain from smoking, or

b. Refusing service to anyone smoking in a prohibited area.

(3) Any person who desires to register a complaint under this section may contact the Health Department or the Police Department.

(4) Ashtrays, cigarette vending machines and other smoking paraphernalia shall not be located in areas where smoking is prohibited.

(i) **Retaliation prohibited.** No person shall discharge, refuse to hire, refuse to serve or in any other manner retaliate against any employee, applicant for employment, customer, service user, business patron or any other person because that person exercises any rights afforded by this section.

(j) **Violations and penalties.**

1. General. Any person who violates any of the provisions of this section may be subject to a forfeiture of no more than one hundred twenty-five dollars ($125) for the first offense and no more than five hundred dollars ($500) for the second and subsequent offenses. Each day that a violation occurs shall be considered a separate offense.

(k) **Clean indoor air.**

1. Intent and construction. The City of Appleton finds that it is in the interests of the health, safety and welfare of the community to adopt by reference Sec. 101.123, Wis. Stats. and subsequent amendments, additions and recodifications. It is the intent of the Common
Council that where there may be conflict between Sec. 101.123, Wis. Stats. and Sec. 7-100, that the most restrictive section shall apply. This ordinance shall not be construed to mean that progressive discipline of City employees for violations of laws, rules and regulations is only authorized where explicitly provided by ordinance.

(2) **Penalty.** The penalties provided by Sec. 101.123, Wis. Stats. shall be in addition to the penalties provided for violation of Sec. 7-100 when a person has violated both laws. In addition to the penalties provided by Sec. 7-100 and Sec. 101.123 Wis. Stats., any City employee who violates any provision of Sec. 7-100 or Sec. 101.123. Wis. Stats., may also be subject to progressive discipline by his or her employer.

(I) **Severability.** The provisions of this section are severable. If any provision of this section is held to be invalid or unconstitutional or if the application of any provision of this section to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or applications of this section which can be given effect without the invalid or unconstitutional provisions or applications. It is hereby declared to be the intent of the Common Council that this section would have been adopted had any invalid or unconstitutional provision or applications not been included herein.

(m) The provisions of this ordinance, in its entirety, shall become effective on July 1, 2005.

(Ord 35-05, §1, effective 7-1-05)
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Art. V. HEALTH IN ALL POLICIES

Sec. 7-200. Findings.

(a) Health starts where we live, learn, work and play, and everyday decisions within the City of Appleton can promote greater health and equity.

(b) All Appleton residents should have the opportunity to make the choices that allow them to live a long, healthy life, regardless of their job, neighborhood of residence, level of education, immigration status, sexual orientation, ethnic background or religion.

(c) Good health enhances quality of life, improves workforce productivity, increases the capacity for learning, strengthens families and communities, supports environmental sustainability and helps reduce overall economic and social insecurity.

(d) In the city of Appleton, those at greatest risk for poor health outcomes are low-income residents, who have a shorter life expectancy than other city residents.

(e) Appleton residents are primarily affected by heart disease, cancer and stroke.

(f) Recognizing the presence of critical health disparities in the community and the opportunity to intervene on health outcomes, the City has developed and defined public health broadly in the City Comprehensive Plan.

(g) Health in All Policies is fundamentally about creating systems-level change both within City departments and in the community.

(h) In developing strategies to address health disparities, it is important to recognize that at its heart, promoting equity is not just about providing more services.

(i) It is also about how services are developed, prioritized and delivered.

(j) The Health in All Policies strategy guides the City of Appleton on how to address the social determinants of health, or the root causes of current health disparities in the development, prioritization and delivery of these services and policies.

Sec. 7-201. Definitions.

The definitions in this section apply throughout this ordinance unless the context clearly requires otherwise:

(a) Health in All Policies (HiAP) is both a process and a goal. Supp. #89

(1) The goal of HiAP is to address inequities at the systems, policy and structural levels to eliminate the resulting health disparities.

(2) At the root of HiAP is an approach to improving health of all people by incorporating health considerations into collaborative decision-making across sectors, agencies, and departments. HiAP brings city departments and community groups together to identify ways in which all policies can take health outcomes into consideration. The HiAP process places health at the center of all work, and through discussion and compromise, gains stakeholder buy-in from all agencies, groups, and departments.

(3) Health in All Policies works to create a new policy and organizing framework within city government and beyond in the community. It emphasizes the consequences of public policies, plans, and programs on health determinants, and aims to improve health outcomes at all levels of government within the city and those agencies responsible for serving Appleton residents.

(4) Stakeholder engagement is essential for ensuring that Health in All Policies is responsive to community needs. Community-based knowledge provides important information about opportunities and barriers for health and insight into the ways in which policies may impede or promote health.

(b) Health is not simply the absence of disease, but the state of complete physical, mental, cultural and social well-being. HiAP is based on the premise that good health is fundamental for a strong economy and vibrant society, and that health outcomes are largely dependent on the social determinants of health, which in turn are shaped by decisions made within the health sector and internally and externally outside of the health sector.

(c) Health equity refers to efforts to ensure that all people have full and equal access to opportunities that enable them to lead healthy lives, while respecting differences that include but are not limited to culture, language, race, gender, sexuality, economic status, citizenship, ability, age and religion.

(1) Health equity entails focused societal efforts to address avoidable inequalities by equalizing the conditions for health for all groups, especially for those who have experienced socioeconomic disadvantage or historical injustices.
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(2) These communities include, but are not limited to women, people of color, low-income individuals and families, individuals who have been incarcerated, individuals with disabilities, individuals with mental health conditions, youth and young adults, seniors, immigrants and refugees, individuals who are limited-English proficient (LEP), and lesbian, gay, bisexual, transgender, questioning, intersex and asexual (LGBTQIA) communities, or combinations of these populations.

(d) Health disparities are differences of presence of disease, health outcomes, or access to care among distinct segments of the populations, including differences that occur by race or ethnicity, gender identity, sexual orientation, education or income, immigration status, age, disability or functional impairment, or geographic location, or the combination of any of these factors.

(e) Health inequities are health disparities resulting from factors that are systemic and avoidable and, therefore, considered unjust or unfair.

(f) Determinants of health equity include the social, economic, geographic, political, institutional and physical environmental conditions that lead to the creation of a fair and just society.

(g) Social determinants of health refer to everything outside of direct health care services, such as the condition in the environment in which people are born, live, learn, work, play, worship, and age that affect a wide range of health, functioning, and quality of life outcomes and risks. The social determinants of health include, but are not limited to:

(1) The availability of resources to meet our daily needs (e.g., safe housing, access to healthy and affordable food).

(2) Access to educational, economic, and job opportunities that lead to sustainable employment.

(3) Neighborhood safety and communities free of crime, violence, and social disorder (e.g., presence of trash and other forms of blight); and

(4) Accessible built environments that promote health and safety, including improved pedestrian, bicycle, and automobile safety, parks and green space, and healthy school siting.

(5) Social norms and attitudes (e.g., discrimination and racism), socioeconomic conditions (e.g., concentrated poverty and the chronically stressful conditions that accompany it).

(h) Toxic stress refers to prolonged and repeated exposure to multiple negative factors, especially in early childhood. Contributing factors include, but are not limited to, racial profiling, poor air quality, residential segregation and economic insecurity. Toxic stress has known physical and mental health impacts and contributes to a host of chronic conditions such as heart disease and diabetes. Toxic stress has also been shown to have negative intergenerational health effects. Toxic stress does not refer to individual stressful events, but rather the unrelieved accumulation of these events over one's life.

Sec. 7-202. Health in All Policies implementation.

To effectively implement and maintain Health in All Policies, the City shall:

(a) Utilize health equity practices to City actions and endeavor to integrate these practices into the city's strategic, operational and business plans; management and reporting systems for accountability and performance; and budgets in order to eliminate inequities and create opportunities for all people and neighborhoods;

(b) Use the Health in All Policies Strategy Document as a guide for implementing Health in All Policies in the City. The strategy document will outline the vision, mission and goals, and identify a timeline as well as process to reach these goals. The strategy document will be a living plan that is designed to grow over time as progress is made and the needs of the community and city change;

(c) Establish the Interdepartmental Health in All Policies Team. The Interdepartmental Team will be comprised of representatives from departments within the City and are responsible for:

(1) Selecting health and health equity indicators for each department to track as a way of prioritizing goals and measuring progress aligned with existing City guiding documents including, but not limited to the Comprehensive Plan and Green Tier Charter;

(2) Attending regularly scheduled Interdepartmental Team meetings led by the Mayor's Office;

(3) Reporting to the Interdepartmental Team on progress and challenges from his or her respective department;

(4) Working with his or her respective department to integrate and track health equity indicators for his or her department;

(5) Committing to attending ongoing health equity

Supp. #89
training, such as health equity impact assessments; and

(6) Assisting with the writing of the Tri-Annual HiAP Report and provide a report to committees.

(d) Design and publish a tri-annual report on the status of health and health equity in the city of Appleton and progress of HiAP implementation for the Common Council, City staff, community organizations, residents, businesses, and other governmental agencies within the city.

(1) Implementation will be measured based on health and health equity indicators selected by the Interdepartmental HiAP Team.

(2) In addition to reporting on indicators, the Tri-Annual Report will include any updates to the HiAP strategy document.

(e) Develop and implement an ongoing community engagement plan to work directly with stakeholders throughout the process of the HiAP strategy development and implementation to ensure that perspectives are consistently understood, considered, and reflected in decisions. The goal is to partner with stakeholders in each aspect of decision making in order to develop and implement collaborative solutions.
(Ord 15-18, §1, 1-23-18)

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Chapter 9

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.
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)

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 not later than April 15, per W.S.A. §125.51(1)(e). Application for an operator’s license shall be made pursuant to W.S.A. §125.04.

(Code 1965, §11.03(5))

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

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

(1) Class “A” fermented malt beverage retail license.
(2) Class “B” fermented malt beverage retail license.

(3) “Class A” intoxicating liquor retail license.

(4) “Class B” intoxicating liquor retail license.
   a. If the City has granted or issued a number of licenses equal to or exceeding the quota established under W.S.A. §125.51, the City may still issue a license for any of the following:
      1. A full service restaurant that has seating for three hundred (300) or more persons.
         a. The principal business during all hours of operation must be that of a restaurant which serve meals that are primarily prepared individually and served to customers at their table by waitstaff.
      b. At any given time, three hundred (300) or more persons must be able to be seated for meal service.
      c. The seating area shall not include outdoor seating, any bar area or any area regularly used for entertainment.
      d. The business shall only be held out and advertised to the public as a restaurant.
      e. Any establishment representing itself as a full service restaurant under this subsection shall maintain that status throughout the license period. If the establishment does not maintain its status, the license shall be revoked or not renewed. The burden is on the license holder to provide evidence that the principal business is a full service restaurant that has seating for three hundred (300) or more persons.
   2. A hotel that has fifty (50) or more rooms of sleeping accommodations and that has either an attached restaurant with seating for one hundred fifty (150) or more persons or a banquet room in which banquets attended by four hundred (400) or more persons may be held.
      a. At any given time, one hundred fifty (150) or more persons must be able to be seated for meal service in any attached restaurant.
      b. The seating area for a restaurant shall not include outdoor seating, any bar area or any area regularly used for entertainment.
      c. Any establishment representing itself under this subsection shall maintain that status throughout the license period. If the establishment does not maintain its status, the license shall be revoked or not renewed. The burden is on the license holder to provide evidence that the principal business is a hotel that has fifty (50) or more rooms of sleeping accommodations and that the hotel has either an attached restaurant with seating for one hundred fifty (150) or more persons or a banquet room in which banquets attended by four hundred (400) or more persons may be held.
   3. An opera house or theater for the performance arts operated by a nonprofit organization as defined in W.S.A. §134.695(1)(am).
      a. The sale of intoxicating beverages shall only be for consumption on the premises and only in connection with ticketed performances.
      b. Any establishment representing itself under this subsection shall maintain that status throughout the license period. If the establishment does not maintain its status, the license shall be revoked or not renewed. The burden is on the license holder to provide evidence that the principal business is an opera house or theater for the performance arts operated by a nonprofit organization.
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 any 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.
(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.**

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**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, §§PS 390.03.
(Code 1965, §7.20(2); Ord 23-03, §1, 1-21-03; Ord 25-12, §1, 3-7-12)
Cross reference(s)—Definitions and rules of construction generally, §1-2.

**Sec. 9-672. License required.**

No person shall own, operate or manage a public swimming pool without obtaining a license from the Health Department.
(Code 1965, §7.20(1))
Cross reference(s)—Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

**Sec. 9-673. Fees.**

(a) The fee for a public swimming pool license is on file with the Department of Health.

(b) In addition, the applicant must pay any state administrative fees, the amount of which is on file with the Department of Health.
(Code 1965, §7.15(F); Ord 100-90, §1(f), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 43-93, §1, 3-17-93)

**Sec. 9-674. Application for license.**

Application for a license required in this article shall be made to the Health Department upon a form furnished by the Department and shall contain such information which the Department may prescribe and require and shall be accompanied by payment of the applicable fee.
(Code 1965, §7.15(2); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

**Sec. 9-675. Issuance of license generally.**

Licenses required under this article, when approved by the Health Department, shall be issued by the Health Officer. A selective or restrictive permit may be issued by the Health Officer on his determination of conformance with appropriate standards and good public health practices.
(Code 1965, §7.15(3); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 7-08, §1, 2-26-08)

*Cross reference(s)—Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; private swimming pools, §4-541 et seq.
Sec. 9-676. Inspection required prior to granting of license; fee.

A license will not be granted under this article to an operator of a new establishment or to a new operator of an existing establishment without a preinspection. A preinspection fee will be assessed for each establishment according to the schedule on file with the Health Department.
(Code 1965, §7.15(10); Ord 100-90, §1J(10), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 44-93, §1, 3-17-93)

Sec. 9-677. Transfer of license; issuance to agent or employee.

No license issued under this article may be transferred unless otherwise provided by the ordinances of the City. No license shall be issued to or used by any person acting as agent for or in the employ of another.
(Code 1965, §7.15(9); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Sec. 9-678. Expiration and renewal of license.

Except where otherwise provided, every Health Department license shall terminate or expire on June 30 of each year and may be renewed annually thereafter. The application for renewal shall be filed with the Health Department on or before June 30, together with payment of the required fee. The fee for said license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Health Department. If the annual renewal fee has not been paid on or before June 30, an additional late payment fee shall be required, the amount if which is on file with the Health Department. Establishments operating on July 15 without a proper license shall be ordered closed by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18. Each violation and each day a violation continues or occurs shall constitute a separate offense.
(Code 1965, §7.15(4)(Ord 100-90, §1J(4), 11-7-90; Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91; Ord 20-92, §1, 3-4-92; Ord 106-95, §1, 11-15-95; Ord 74-96, §1, 9-4-96)

Sec. 9-679. Suspension or revocation of license.

The Health Officer may suspend or revoke any license issued pursuant to this article for violations of ordinances or laws regulating the licensed activity and for other good cause.
(Code 1965, §7.15(8)(a); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Sec. 9-680. Right of entry; testing of samples.

The Health Officer may enter any establishment required to be licensed in this article at all reasonable times to inspect the premises, secure samples or specimens, examine and copy documents, obtain photographs, or take any other action he deems necessary to properly enforce the provisions of applicable laws regulating such business or activity. Samples of water from any licensed premises may be taken and examined by the Health Officer at such time as he deems necessary, for detection of microbiological quality, chemical disinfection, or any other enforcement purposes. Standards and definitions set forth in Wisconsin Administrative Code ATCP §76 are hereby adopted as reference and incorporated as part of this section.
(Code 1965, §7.15(5); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91, Ord 23-03, §1, 1-21-03; Ord 85-16, §1, 11-8-16)

Sec. 9-681. Correction of violations; citations.

Whenever the Health Officer finds that any establishment required to obtain a license in this article is not operating or equipped in any manner required by ordinances or laws regulating such establishment, the Health Officer may notify, in writing, the person operating the premises, specifying the requirements of such ordinance or law, and requiring that such business comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Health Officer. The Health Officer may also request the issuance of citations for any such violations pursuant to the provisions of §1-17.
(Code 1965, §7.15(6))

Sec. 9-682. Emergency powers of Health Officer.

Whenever the Health Officer has reasonable or probable cause to believe that any sanitary condition, equipment, premises or method of operation thereof creates a danger to public health, the Health Officer may issue a temporary order prohibiting the continued operation of the premises or any part thereof which creates the immediate danger to health. The Health Officer may suspend any license without notice whenever the licensed premises constitutes an immediate health hazard.
(Code 1965, §7.15(7); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Sec. 9-683. Appeals.

Any person aggrieved by the denial of a license or by suspension or revocation of a license required under this article by the Health Officer or by any temporary
suspension or any other order may appeal any such order to the Board of Health within thirty (30) days of suspension, revocation or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such order pending determination of the appeal. The Board of Health may affirm, modify, or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings relating to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record
(Code 1965, §7.15(8)(b); Ord 111-91, §1, 11-6-91; Ord 125-91, §1, 11-20-91)

Sec. 9-684. State sanitation regulations adopted.

All public swimming pools and licensees under this article shall be subject to and comply with the provisions of Wisconsin Administrative Code, SPS 390 or ATCP §76 as applicable.
(Code 1965, §7.20(3); Ord 147-94, §1, 12-7-94; Ord 76-96, §1, 9-4-96, Ord 23-03, §1, 1-21-03; Ord 25-12, §1, 3-7-12; Ord 86-16, §1, 11-8-16)
Cross reference(s)—Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; permits, §4-546.

Sec. 9-685. Authority to close pools.

In addition to the closing criteria set forth in Wisconsin Administrative Code, ATCP §76, the Health Officer may order any public swimming pool closed if the following conditions exist:

(1) Bacteriological or chemical analysis of water samples exceeds those standards listed in Wisconsin Administrative Code, ATCP §76.30 or the presence of Pseudomonas aeruginosa or any other microbiological pathogen capable of transmitting a communicable disease is detected; or

(2) Any imminent health or safety hazard is identified.
(Code 1965, §7.20(3), Ord 23-03, §1, 1-21-03; Ord 87-16, §1, 11-8-16)

Secs. 9-686 – 9-695. Reserved.
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 designee thereof.
(Code 1965, §11.09(2)–(5); Ord 21-94, §1, 1-5-94, Ord 83-99, §1, 10-24-99)
Cross reference(s)—Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.
State law reference(s)—Authority to license, W.S.A. §349.24.

Sec. 9-723. Insurance.

No vehicle for the conveyance of passengers shall be operated or licensed under this division until the applicant for the license deposits with the City Clerk a sufficient
policy of insurance issued by an insurance company licensed to do business in the state which shall provide that the insurance company shall be liable for damages in the minimum amount of five hundred thousand dollars ($500,000) representing a combined single limit for bodily injury and property damage liability for any accident due to the negligent operation of such vehicle. Said policy shall also include the City of Appleton as an insured. The policy or contract is to be approved by Human Resources for the City before it is filed and shall contain a provision that the policy may not be canceled before the expiration of its term except upon thirty (30) days' written notice to the City Clerk.
(Code 1965, §11.09(7); Ord 30-93, §1, 3-3-93, Ord 83-99, §1, 10-24-99)

Sec. 9-724. Off-street parking.

Before a license to convey passengers for hire will be issued under this division, the applicant must provide adequate off-street parking for the vehicles to be licensed. Such off-street parking shall be stated in the application for a license.
(Code 1965, §11.09(11))

Sec. 9-725. Posting of fares.

The fares that are established by any licensee under this division for the transportation of passengers shall be printed in letters not less than one-half (½) inch high and posted in a conspicuous place in all taxicabs. All advertised and business practices of licensees shall be in compliance with Wisconsin Trade Practices Laws, and enforced by the City Sealer or designee thereof.
(Code 1965, §11.09(9), Ord 83-93, §1, 10-24-99)

Sec. 9-726. Identification of taxicabs.

Each taxicab licensed under this division shall have painted in a prominent place on its exterior a number by which it may be easily identified. The numbers shall be placed on licensed taxicabs according to the specifications of and under the direction of the City Sealer or designee thereof.
(Code 1965, §11.09(6), Ord 83-99, §1, 10-24-99)

Sec. 9-727. Inspection of taxicabs and limousines.

The Police Department may inspect taxicab or limousine at any time for the purpose of discovering defects that might make them unsafe for the transportation of passengers. When defects are found, the taxicab or limousine shall not be operated for the transportation of passengers until the taxicab or limousine has been repaired and until the repairs have been approved by the Police Department.
(Code 1965, §11.09(8); Ord 48-92, §1, 5-6-92, Ord 204-02, §1, 10-22-02)

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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.

(4) The applicant has more than three (3) traffic
accidents in the past year, regardless of fault.

(5) The applicant was convicted of an offense that substantially relates to the licensed activity. Such offenses include, but are not limited to, burglary, sex offenses, drug offenses, possession or sale of stolen property. A license can be granted if the conviction is reversed or if the person is granted a pardon for the offense. In determining whether the circumstances of the conviction are substantially related, the Chief of Police or designee shall consider the number of convictions, the nature and seriousness of the crime(s), whether the crime(s) involved violence, theft, or other evidence of lack of trustworthiness with money, whether the crime(s) involved driving, the age and maturity of the individual at the time of the conviction, the amount of time elapsed since the conviction, and any evidence of personal rehabilitation.

(6) The applicant has been declared a habitual criminal.

(c) The license of any applicant who makes a false statement in his application shall be void and the license shall be surrendered to the City Clerk or any member of the Police Department.

(d) Any driver licensed under this section who shall be found guilty or shall plead guilty to violations of the traffic code of the City, 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 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)

Sects. 9-731 – 9-745. Reserved.
DIVISION 3. WRECKER SERVICES

Sec. 9-746. Finding and purpose.

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

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

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

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

(d) Vehicles towed subsequent to an arrest.
(Code 1965, §22.04(1) - (10); Ord 31-91, §1(1) - (10), 3-20-91, Ord 96-00, §1, 10-7-00, Ord 101-00, §1, 11-18-00, Ord 39-02, §1, 3-25-02, Ord 11-05, §1, 1-19-05; Ord 17-17, §1, 1-10-17)

Sec. 9-747. Definitions.

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

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

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

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

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

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

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

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

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

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

*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 said license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Health Department. If the annual renewal fee has not been paid on or before June 30, an additional late payment fee shall be required, the amount if which is on file with the Health Department.

Establishments operating on July 15 without a proper license shall be ordered closed by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18. Each violation and each day a violation continues or occurs shall constitute a separate offense.
(Ord 123-92, §1, 11-4-92; Ord 106-95, §1, 11-15-95; Ord 74-96, §1, 9-4-96)

Sec. 9-780. Suspension or revocation of license.

The Health Officer may suspend or revoke any license issued pursuant to this article for violations of ordinances or laws regulating the licensed activity and for other good cause.
(Ord 123-92, §1, 11-4-92)

Sec. 9-781. Right of entry; testing of samples.

The Health Officer may enter any establishment required to be licensed in this article at all reasonable times to inspect the premises, secure samples or specimens, examine and copy documents, obtain photographs, or take any other action he deems necessary to properly enforce the provisions of applicable laws regulating such business or activity. Samples of food, drink or water from any licensed premises may be taken from any licensed premises and examined by the Health Officer at such times as he deems necessary, for detection of unwholesomeness, adulteration, microbiological quality, or any other enforcement purposes. Adulteration and microbiological quality standards and definitions set forth in W.S.A. §97.02, or to the State Department of Agriculture, Trade and Consumer Protection, Food Division's Polices and Procedures Manual Sections 14.1 and 14.2 are hereby adopted by reference and incorporation as part of this section.
(Ord 123-92, §1, 11-4-92, Ord 24-03, §1, 1-21-03)

Sec. 9-782. Correction of violations; citations.

Whenever the Health Officer finds that any establishment required to obtain a license in this article is not operating or equipped in any manner required by ordinances or laws regulating such establishment, the Health Officer may notify, in writing, the person operating the premises, specifying the requirements of such ordinance or law, and requiring that such business comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Health Officer. The Health Officer may also request the issuance of citations for any such violations pursuant to the provisions of §1-17.
(Ord 123-92, §1, 11-4-92)
Sec. 9-783. Emergency powers of Health Officer.

Whenever the Health Officer has reasonable or probable cause to believe that any food, sanitary condition, equipment, premises or method of operation thereof creates a danger to public health, the Health Officer may issue a temporary order prohibiting the sale or movement of food for any purpose, or an order prohibiting the continued operation of the premises or any part thereof which creates the immediate danger to health. The Health Officer may suspend any license without notice whenever the licensed premises constitutes an immediate health hazard.
(Ord 123-92, §1, 11-4-92)

Sec. 9-784. Appeals.

Any person aggrieved by the denial of a license or by suspension or revocation of a license required under this article by the Health Officer or by any temporary suspension or any other order may appeal any such order to the Board of Health within thirty (30) days of suspension, revocation or issuance of the order. The Board of Health shall provide the appellant a hearing or opportunity for hearing on the matter and may either suspend or continue any such other pending determination of the appeal. The Board of Health may affirm, modify, or set aside the order of the Health Officer after a hearing on the matter. The Board of Health shall make and keep a record of all proceedings relating to any such appeal and the record and actions of the Board of Health shall be subject to review by certiorari by a court of record
(Ord 123-92, §1, 11-4-92)

Secs. 9-785 – 9-795. Reserved.

DIVISION 2. RECREATIONAL AND EDUCATIONAL CAMPS

Sec. 9-796. Definitions.

For the purpose of this division, a recreational and educational camp shall mean a premise, including temporary and permanent structures, which is operated as overnight living quarters where both food and lodging or facilities for food and lodging are provided for children or adults, or both children and adults, for a period which includes four (4) or more consecutive nights of lodging, for a planned program of recreation or education, and which is offered free of charge or for payment of a fee by a person or by the state or a local unit of government.
(Ord 123-92, §1, 11-4-92)

Sec. 9-797. License required; fees.

No person shall operate a recreational or educational camp without obtaining a license from the Health Department. The fee for the license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Department of Health.
(Ord 123-92, §1, 11-4-92; Ord 109-95, §1, 11-15-95)

Sec. 9-798. State sanitation regulations adopted.

All recreational and educational camps and licenses under this division shall comply with Wisconsin Administrative Code ATCP §78.01 through §78.22, which are hereby adopted by reference and incorporated as part of this division.
(Ord 123-92, §1, 11-4-92, Ord 24-03, §1, 1-21-03; Ord 88-16, §1, 11-8-16)

Secs. 9-799 – 9-810. Reserved.
DIVISION 3. CAMPGROUNDS

Sec. 9-811. Definitions.

For the purposes of this definition, a "campground" shall mean any parcel or tract of land owned by a person, the state or local government, which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four (4) or more camping units, or by one (1) to three (3) camping units if the parcel or tract of land is represented as a campground.

*Camping unit* means any portable device, not more than four hundred (400) square feet in area, used as a temporary dwelling, including but not limited to a camping trailer, motor home, bus, van, pick-up truck or tent.

*Special event campground* means a single event such as a fair, rally or festival involving the gathering of camping units for a maximum of seven (7) consecutive nights. (Ord 123-92, §1, 11-4-92)

Sec. 9-812. Exemptions.

The following are exempt from obtaining a license under this article:

Where independent camping unit(s) are utilized in conjunction with a business event, such as a carnival. (Ord 123-92, §1, 11-4-92)

Sec. 9-813. License required; fees.

No person shall operate a campground without obtaining a license from the Health Department. The fee for said license shall be on file with the Health Department. In addition, the applicant must pay any state administrative fees, the amount of which is also on file with the Health Department. (Ord 123-92, §1, 11-4-92, Ord 110-95, §1, 11-15-95)

Sec. 9-814. State sanitation regulations adopted.

All campgrounds under this division shall comply with Wisconsin Administrative Code ATCP §79.01 through ATCP §79.27, which are hereby adopted by reference and incorporated as part of this division. (Ord 123-92, §1, 11-4-92, Ord 24-03, §1, 1-21-03; Ord 89-16, §1, 11-8-16)

ARTICLE XVI. FARMERS MARKETS

Sec. 9-815. Definitions.

Farmers market is defined as a specified location with two (2) or more booths or stalls operated on a non-continuous basis by individuals selling either products of the farm or garden or any combination of products of the farm and garden and commercially processed foods, household products, crafts and handmade items. (Ord 83-94, §1, 7-20-94; Ord 37-95, §1, 4-19-95)

Sec. 9-816. License required.

Each farm market shall have an individual designated as agent. Each market shall be licensed annually by the City. The term shall be the calendar year, and all licenses shall expire or terminate on December 31 of each year. (Ord 83-94, §1, 7-20-94)

Sec. 9-817. Application for license; license fees.

The agent of each farm market shall complete a license application obtained from the City Clerk. The completed application with license fee shall be submitted to the City Clerk. The fee for a license under this division shall be on file with the City Clerk. (Ord 83-94, §1, 7-20-94)

Sec. 9-818. License investigation.

Upon receipt of an application and license fee, the clerk shall forward the application to the appropriate departments for their recommendations. The recommendations shall either approve or deny the license. If all recommendations are for approval, the City Clerk may immediately issue said license. Otherwise, the applications will be referred to the Safety and Licensing Committee. (Ord 83-94, §1, 7-20-94, Ord 108-04, §1, 8-10-04)

Sec. 9-819. Rules of operation.

Each farm market, and the operators of any booths or stalls therein, shall comply with the rules and regulations for a farm market on file with the Appleton Health Department. These rules state the manner in which any food or other products may be handled or sold, and the trade practices that shall be adhered to. The licensed farm market and its agent shall be responsible for the compliance of any individual operating within their market. (Ord 83-94, §1, 7-20-94)

Sec. 9-820. Violations.

A violation of this article by a seller shall constitute a violation by the agent. (Ord 83-94, §1, 7-20-94)
ARTICLE XVII. ESCORTS AND ESCORT SERVICES

Sec. 9-830. Definitions.

(a) For the purposes of this article, certain terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise.

Escort means any person who, for a fee, commission, salary, hire, profit, payment or other monetary considerations accompanies or offers to accompany another person to or about social affairs, entertainment or places of amusement or consorts with another person about any place of public resort or within any private quarters or agrees to privately model lingerie, perform a striptease or perform in a nude or semi-nude state for another person or persons.

Escort service means service provided by any person who, for a fee, commission, salary, hire, profit, payment or other monetary consideration, furnishes or offers to furnish names of persons who may accompany other persons to or about social affairs, entertainment or places of amusement, or who may consort with others about any place of public resort or within any private quarters or agrees to privately model lingerie, perform a striptease or perform in a nude or semi-nude state for another person or persons.

Person means any individual and is also extended and applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate.

(Ord 128-03, §1, 8-12-03)

Sec. 9-831. Exemptions.

This section does not apply to businesses, agencies and persons licensed by the State of Wisconsin or the City of Appleton pursuant to a specific statute or ordinance, and employees employed by a business so licensed and which performs an escort or an escort service function as a service merely incidental to the primary function of such profession, employment or business and which do not hold themselves out to the public as an escort or an escort service.

Sec. 9-832. License required.

(a) No escort service shall operate or provide service in the City of Appleton without first obtaining an escort service license issued by the City of Appleton.

(b) No person shall escort in the City of Appleton unless employed by an escort service licensed by the City of Appleton and properly registered pursuant to §9-839.

(c) Any person, partnership or corporation which
desires to operate or provide services from more than one
(1) location must have a license for each location.

(d) No license or interest in a license may be transferred
to any person, partnership or corporation.

(e) No person may advertise indicating that an escort
service is available in the City of Appleton unless that
service possesses a valid license. No escort service may in
any manner advertise its services as licensed by the City of
Appleton.

(f) No escort service shall provide a person with the
actual services of an escort at its establishment address
except when the escort service has met the standards and
requirements of adult-oriented establishments and is in
possession of an adult-oriented establishment permit as
required in §23-390, et seq.

(Ord 128-02, §1, 8-12-03, Ord 47-05, §1, 5-10-05)

Sec. 9-833. Application for license.

(a) Any person desiring to secure a license under this
article shall make application to the City Clerk.

(b) The application for a license shall be on a form
approved by the City Clerk. An applicant for a license
(which shall include each partner and limited partner of a
partnership applicant, each officer and director of a
corporate applicant, each stockholder holding ten percent
(10%) or more of the stock or beneficial ownership and
every other person who is interested directly in the
ownership or operation of the business) shall furnish the
following information under oath:

(1) Name and address, including all aliases;

(2) Written proof that the individual is at least
eighteen (18) years of age;

(3) All residential addresses of the applicant for the
past ten (10) years;

(4) The business, occupation or employment of the
applicant for ten (10) years immediately
preceding the date of application;

(5) Whether the applicant previously operated in
this or any other state, county or city under an
escort service license or similar business
license; whether the applicant has ever had such
a license revoked or suspended, the reason
therefore and the business entity or trade name
under which the applicant operated that was
subject to the suspension or revocation;

(6) All convictions and pending charges of felony,
misdemeanor or ordinance violations, except
minor traffic violations;

(7) Fingerprints and photograph registration with
the Appleton Police Department;

(8) The address of the escort service to be operated
by the applicant;

(9) If the applicant is a corporation, the application
shall specify the name of the corporation, the
date and state of incorporation, the name and
address of the registered agent and all officers
and directors of the corporation.

(c) Additional information. Each service shall furnish
the following information under oath at the time of
application:

(1) The trade name of the escort service. An escort
service may operate under only one (1) trade
name per license.

(2) The complete address of the proposed business
location with a copy of the deed, lease, or other
document pursuant to which the applicant
occupies or will occupy, such premises.

(3) The service's Federal Employer Identification
Number.

(4) A written plan setting forth:

a. Description of the nature of the business to
   be conducted and services to be offered;

b. Hours that the service will be open to the
   public;

c. Copies of contracts to be used with escorts
   and customers.

(d) A receipt from the Finance Department showing
payment of the appropriate fee shall be submitted with the
application. The amount of the fee shall be on file in the
office of the City Clerk.

(Ord 128-03, §1, 8-12-03, Ord 47-05, §1, 5-10-05)

Sec. 9-834. Standards for license issuance.

(a) To receive a license to operate an escort service, an
applicant must meet the following standards:

(1) If the applicant is an individual:

a. The applicant shall be at least eighteen (18)
   years of age;

b. Subject to Ch. 111, Wis. Stats., the
applicant shall not have been convicted of or pleaded 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 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 no contest, to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction;

c. No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of a felony, misdemeanor or ordinance violation which substantially relates to the licensed activity;

d. No person having a financial interest in the partnership, joint venture or other type of organization shall have been found to have violated any provision of this ordinance within five (5) years immediately preceding the date of the application.

(4) No license shall be issued unless the Appleton Police Department has investigated the applicant’s qualifications to be licensed.

(5) If any charges are currently pending which, if resulting in a conviction, would disqualify the applicant pursuant to subsections (1), (2) or (3) above, the Safety and Licensing Committee may postpone action on the application until such time as the charge is resolved. Should the Safety and Licensing Committee fail to act upon an application within sixty (60) days of the resolution of the charge, the application shall be deemed granted.

(Ord 128-03, §1, 8-12-03)

Sec. 9-835. Renewal of license.

(a) Every license issued pursuant to this article will terminate on December 31st following its issuance, unless sooner revoked. Application for renewal shall be on a form provided by the City Clerk.

(b) No renewal application will be considered filed in the office of the City Clerk unless it is accompanied by the receipt of the Finance Department showing payment of the appropriate fee. The amount of the renewal fee shall be on file in the office of the City Clerk.

Sec. 9-836. Denial of application.

Whenever an initial application is denied, the duties of the City Clerk and the rights of the applicant shall be as set forth in §9-26 of the Appleton Municipal Code.

Sec. 9-837. Suspension, revocation or non-renewal of license.

(a) Any license issued under this article may be suspended for not less than ten (10) days nor more than ninety (90) days, or revoked, pursuant to §9-29, Appleton Municipal Code. The same provisions shall apply to denial
of an application for renewal of a license issued under this article.

(b) Any violation of the requirements of this article shall be grounds for revocation of a license issued under this article.

Sec. 9-838. Responsibilities of the operator.

(a) The operator of an escort service shall maintain a register of all employees or independent contractors, showing the name and aliases used by the employee, home address, birth date, sex, telephone numbers, social security number and date of employment and termination. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(b) Records and reports required. Every escort and escort service shall:

(1) Provide to each patron a written contract and receipt of payment for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount of money such services shall cost the patron, and any special terms or conditions relating to the services to be performed.

(2) Maintain a legible written record of each transaction of any escort furnished to or arranged for on behalf of any person or customer. The record shall show the date and hour of each transaction, the name, address and telephone number of the person requesting an escort, and the name of every escort furnished.

(3) The record required by subsections (1) and (2) shall be kept available and open for inspection by the Police Department during business hours.

(c) The operator of an escort service shall make the register of employees, along with any other records required to be maintained under this article, available immediately for inspection by police upon demand of a member of the Appleton Police Department at all reasonable times.

(d) Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct. The operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(e) Any act or omission of any employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(f) No person shall escort or agree to escort a person under the age of eighteen (18) years.

(Ord 128-03, §1, 8-12-03, Ord 47-05, §1, 5-10-05)

Sec. 9-839. Registration of employees.

(a) All operators or employees working for any escort service and independent contractors shall, prior to beginning employment or contracted duties, obtain a photo identification card from the City Clerk. Prior to issuance, the person shall provide:

(1) Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer;

(2) Photographs and fingerprinting with the Appleton Police Department.

(b) Upon registration, the Appleton Police Department will provide to each registered employee or independent contractor an identification card, provided by the City Clerk, containing the employee's or independent contractor's photograph identifying the person as such, which shall be kept available for production upon request.

(c) All identification cards shall expire on December 31st following its issuance.

(d) The applicant shall pay a fee, the amount of which is on file in the office of the City Clerk.

(e) Any escort employed by more than one (1) escort service shall submit a separate registration for each service by which the escort is employed.

(Ord 98-97, §1, 12-5-97, Ord 128-03, §1, 8-12-03)

Sec. 9-840. Penalties.

Any person found to have violated any provision of this article shall be subject to a forfeiture of not less than two thousand dollars ($2,000) and not more than five thousand dollars ($5,000).

Sec. 9-841. Severability.

If any provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the other provisions of same.
ARTICLE XVIII. TATTOO AND BODY PIERCING ESTABLISHMENTS

Sec. 9-850. Authority and purpose

(a) This chapter is promulgated under the authority of Wis. Stats. §463.16 for the purpose of regulating tattooists, tattoo establishments, body piercers and body piercing establishments in order to protect public health and safety.

(b) State sanitation regulations adopted. All tattoo and body piercing establishments, practitioners, and licenses under this division shall be subject to and comply with the provisions of Wis. Admin. Code, Secs. SPS §221, which are hereby adopted by reference and incorporated as part of this division.
(Ord 90-16, §1, 11-8-16)

Sec. 9-851. Definitions.

Agent means a local health department serving a population greater than five thousand (5,000) which is designated by the Wisconsin Department of Safety and Professional Services under a written agreement authorized by Wis. Stat. §252.245(1), to issue licenses to and make investigations or inspections of tattooists, tattoo establishments, body piercers and body piercing establishments.
(Ord 91-16, §1, 11-8-16)

Antiseptic means a chemical that kills or inhibits the growth of organisms on skin or living tissue.

Approved means acceptable to the department based on its determination of conformance to this chapter and good public health practices.

Autoclave means an apparatus that is registered and listed with the Federal Food and Drug Administration for sterilizing articles by using superheated steam under pressure.

Body pierce, as a verb, means to perforate any human body part or tissue, except an ear, and to place a foreign object in the perforation to prevent the perforation from closing.

Body piercer means a person who performs body piercing on another person at that person’s request.

Body piercing means perforating any human body part of tissue, except an ear, and placing a foreign object in the perforation to prevent the perforation from closing.

Body piercing establishment means the permanent premises where a body piercer performs body piercing and is in business for more than seven (7) consecutive days in a license year.
Cleaning means the removal of foreign material from objects, normally accomplished with detergent, water and mechanical action.

Department means the Wisconsin Department of Safety and Professional Services.

Disinfectant means a chemical that is capable of destroying disease-causing organisms on inanimate objects, with the exception of bacterial spores.

Health Officer means and includes the Health Officer or authorized agent of the Health Officer.

Hot water means water at a temperature of 110°F, or higher.

Local health department means an agency of local government that takes any of the forms specified in Wis. Stats. §250.01(4), specifically the City of Appleton Health Department.

Operator means the owner or person responsible to the owner for the operation of a tattoo or body-piercing establishment.

Patron means a person receiving a tattoo or body piercing.

Practitioner means a tattooist or body piercer.

Premises means a building, structure, area or location where tattooing or body piercing is performed.

Sharps waste means waste that consists of medical equipment or clinical laboratory articles that may cause punctures or cuts, such as hypodermic needles, syringes with attached needles and lancets, whether contaminated, unused or disinfected.

Single use means a product or item that is disposed of after one use, such as a razor, a needle, a cotton swab, a tissue or paper product, a paper of soft plastic cup, or gauze or other sanitary covering.

Sterilization means the killing of all organisms and spores through use of an autoclave operated at a minimum of 250°F (121°C) at a pressure of at least fifteen (15) pounds per square inch for not less than thirty (30) minutes or through use of a an autoclave approved by the department that is operated at different temperature and pressure levels but is equally effective in killing all organisms and spores.

Tattoo, as a verb, means to insert pigment under the surface of the skin of a person, by pricking with a needle or otherwise, so as to produce an indelible mark or figure through the skin.

Tattoo establishment means the permanent premises where a tattooist applies a tattoo to another person and is in business for more than seven (7) consecutive days in a license year.

Tattooist means a person who tattoos another person at that person's request.

Tempered water means water ranging in temperature from 85°F to less than 110°F.

Temporary establishment means a single building, structure, area or location where a tattooist or body piercer performs tattooing or body piercing for a maximum of seven (7) days per license year.

(Ord 64-18, §1, 7-24-18)

Sec. 9-852. Scope.

(a) Applicability. This chapter applies to all tattooists, body piercers, tattoo establishments and body piercing establishments.

(b) Approved comparable compliance. When it appears to the Department that strict adherence to a provision of this chapter is impractical for a particular tattooist, tattoo establishment, body piercer or body piercing establishment, the Department may approve a modification in that requirement for that person or establishment if the Department is provided with satisfactory proof that the grant of a variance will not jeopardize the public's health, safety or welfare.

Sec. 9-853. Right of entry.

The Health Officer may enter any establishment required to be licensed in this article at all reasonable times to inspect the premises, view the practice (with patron’s permission), secure samples or specimens, examine and copy documents, obtain photographs or take any other action deemed necessary to properly enforce the provisions of applicable laws regulating such business or activity.

Sec. 9-854. Responsibility of the operator.

(a) Every act or omission by an employee or practitioner constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, the operator shall be liable for such act or omission in the same manner as if the operator committed the act or caused the omission.
(b) Any act or omission of any employee constituting a violation of the provisions of this ordinance shall be deemed an act or omission of the operator for purposes of determining whether the license shall be suspended, revoked, or not renewed.

Sec. 9-855. Correction of violations, citations.

Whenever the Health Officer finds that any establishment, tattooist or body piercer required to obtain a license in this article is not operating or equipped in any manner required by ordinances or laws regulating such establishment or activity, the Health Officer may notify, in writing, the person operating the premises, or performing the activity, specifying the requirements of such ordinance or law, and requiring that such business or practitioner comply with the provisions of such ordinance or law, and specify the time limits within which compliance shall take place. If the time limit or any extension thereof set forth in the notification is not met, the license may be suspended or revoked by the Health Officer. The Health Officer may also issue citations for any such violations pursuant to the provisions of Appleton Municipal Code Sec. 1-17(c).

Secs. 9-856 — 9-859. Reserved.

DIVISION 2. LICENSES

Sec. 9-860. Generally.

(a) Any person, partnership, or corporation desiring to secure a tattoo establishment, body-piercing establishment, combination tattoo/body piercing establishment, tattooist and/or body piercer license shall make application to the local health department.

(b) The application shall be on a form provided by the local health department and shall include, at a minimum, the following information:

1) The name(s) (including aliases), addresses, dates of birth and driver's license number, of the applicant, any partner or limited partner in a partnership application, any shareholder holding more than ten percent (10%) of the stock of a corporate applicant and each corporate officer and director.

2) Written proof that each person required to be identified under this section is at least eighteen (18) years of age.

3) The address of the establishment to be licensed.

4) Whether the applicant or any person required to be identified is currently operating or has previously operated, in this or any other municipality or state, under a tattoo or body piercing establishment license, whether the applicant or person required to be named in this section has ever had such a license or permit suspended or revoked, or has been convicted of a violation of state or local laws governing the practice of tattoo or body piercing, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension, revocation or conviction.

(c) Failure or refusal of the applicant to completely and truthfully provide responses to the application questions, to give any information relevant to the investigation of the application, or refusal to appear at any reasonable time and place for examination regarding said application shall constitute an admission by the applicant that the applicant is ineligible for such license and shall be grounds for denial thereof.

(d) Application for a license required in this article shall be made to the local health department upon a form furnished by the local health department and shall contain such information that the local health department may prescribe and require and shall be accompanied by payment of the application fee.
(e) Within thirty (30) days after receiving a completed application for a license, the local health department or its agent shall either approve the application and issue a license or deny the application. If an application for a license is denied, the local health department shall give the applicant reasons, in writing, for the denial and provide information about how the applicant may appeal that decision.

(f) A license will not be granted under this article to an operator of a new establishment or to a new operator of an existing establishment without a preinspection. A preinspection fee will be assessed for each establishment according to the schedule on file with the local health department.

(g) The operator of a tattoo or body-piercing establishment shall promptly notify the local health department of his or her intention to cease operations and shall supply the local health department with the name and mailing address of any new operator. A license is not transferable. A new operator will submit an application for a new license. No license shall be issued to or used by any person acting as agent for or in the employ of another.

Sec. 9-861. Application for establishment license.

(a) Requirements.

(1) No person may operate a tattoo establishment or body piercing establishment or a combined tattoo and body piercing establishment unless he or she has obtained a license for the establishment from the local health department by application made upon a form furnished by the local health department. All applications submitted to the local health department shall be accompanied by a fee under (b).

(2) No person shall engage in the practice of tattooing and/or body piercing except in a permanent licensed tattoo and/or body-piercing establishment.

(3) Reciprocity within the State of Wisconsin will be recognized upon receipt of proof that the local requirements as set forth in this chapter are met by the applicant.

(b) Expiration and renewal of license.

(1) Except where otherwise provided, every Health Department license shall terminate or expire on June 30th of each year and may be renewed annually thereafter.

(2) The application for renewal shall be filed with the Health Department on or before June 30th, together with payment of the required fee. The fee for said license shall be on file with the local health department.

(3) In addition, the applicant must pay any state administrative fees, the amount of which is on file with the local health department. If the annual renewal fee has not been paid on or before June 30th, an additional late payment fee shall be required; the amount of which is also on file with the local health department. Establishments operating on July 15th without a proper license shall be ordered closed by the Health Officer. Practitioners operating on July 15th without a proper license shall be ordered to cease operations by the Health Officer. Failure to comply will result in the issuance of a uniform citation with current bond as set forth in §1-18, Appleton Municipal Code. Each violation and each day a violation continues or occurs shall constitute a separate offense.

(Ord 64-18, §1, 7-24-18)

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)

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
DIVISION 3. HEALTH AND SANITARY REQUIREMENTS

Sec. 9-870. Physical examinations of practitioners.

(a) The Health Officer shall have the power to require any practitioner to submit to a practicing physician for a physical examination whenever the practitioner is suspected of having any infectious or contagious disease that may be transmitted by the practice of tattooing or body piercing. The expenses of the physical examination shall be paid by the practitioner.

(b) Any practitioner notified to appear for a physical examination as may be required by the preceding subsection shall immediately cease working as a practitioner of tattoo or body piercing and shall not be allowed to work thereafter as a practitioner of tattoo or body piercing until he or she shall have first received a certificate in writing from a practicing physician that he or she is not inflicted with any infectious or contagious condition or disease that may be transmitted by the practice of tattoo or body piercing.

(Ord 64-18, §1, 7-24-18)

Sec. 9-871 – 9-879. Reserved.

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Chapter 18

Taxation and Finance

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

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Cross reference(s)—Director of Finance, §2-235 et seq.
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DIVISION 2. HOTEL AND MOTEL ROOM TAX*

Sec. 18-66. Definitions.

In addition to the terms defined in this section, the terms used in this ordinance shall have the definitions, if any, set forth in the Room Tax Act (as defined below).

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

**Exhibition Center Bonds** shall mean the Redevelopment Authority of the City of Appleton, Wisconsin Taxable Lease Revenue Bonds, Series 2018 (Fox Cities Exhibition Center Project), issued to finance or refinance the construction and related costs of the Fox Cities Exhibition Center, and any additional bonds issued to refinance said bonds.

**Fiscal Agent** shall mean a financial institution acting in the capacity as an agent on behalf of the City for the receipt and allocation of the room taxes in accordance with this ordinance.

**Fiscal Agency agreement** shall mean an agreement entered into by and among the Municipalities, the Room Tax Commission, and the Fiscal Agent that sets forth the duties of the Fiscal Agent with respect to the room taxes as described in this ordinance.

**Fox Cities Tourism Zone** shall mean that geographic area encompassing the City of Appleton, Wisconsin; the City of Kaukauna, Wisconsin; the City of Neenah, Wisconsin; the Village of Kimberly, Wisconsin; the Village of Little Chute, Wisconsin; the Town of Grand Chute, Wisconsin; the Town of Neenah, Wisconsin; the Village of Fox Crossing, Wisconsin; the City of Menasha, Wisconsin, the Village of Sherwood, Wisconsin, and that may in the future include any municipality that hereafter becomes a party to the Room Tax Commission Agreement.

**Operators** shall mean hotelkeepers, motel operators, lodging marketplaces, owners of short-term rentals, and other persons furnishing accommodations that are available to the public, which are located in the City and are obligated to pay room taxes under this ordinance.

**Pledge Agreement** shall mean any pledge agreement entered into by the Municipalities and the Room Tax Commission, pursuant to which a portion of the room tax is pledged to pay a particular project or purpose in furtherance of the purposes of the room tax set forth in this ordinance, which includes the Exhibition Center Bonds and any Tourism Facilities Bonds.

**Quarterly payment date** shall mean each January 31, April 30, July 31, and October 31, each of which is the last day of the month next succeeding the end of a calendar quarter.

**Room tax** shall mean a tax on the privilege of furnishing, at retail, except sales for resale, rooms or lodging to transients by the Operators, pursuant to the Room Tax Act.

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

**Room Tax Commission** shall mean the Fox Cities Room Tax Commission created by the Municipalities within the Fox Cities Tourism Zone pursuant to the Room Tax Commission Agreement in order to coordinate tourism promotion and tourism development within the Fox Cities Tourism Zone.

**Room Tax Commission Agreement** shall mean the Amended and Restated Room Tax Commission Agreement, dated as of November 24, 2015 entered into by and among the Municipalities and the Room Tax Commission, as amended from time to time.

**Tourism Facilities Bonds** shall mean any one or more series of bonds issued to finance or refinance the construction and related costs of projects undertaken by or on behalf of the Municipalities for furtherance of the Tourism Facilities Room Tax, and any additional bonds issued to refinance said bonds. (Ord 99-85, §1, 10-16-85; Ord 106-15, §1, 1-1-16; Ord 40-18, §1, 4-24-18)

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

Sec. 18-67. Imposition of room tax.

(a) Pursuant to the Room Tax Act, there is hereby imposed a ten percent (10%) Room Tax on the privilege of furnishing, at retail, except sales for resale, rooms or lodging to transients, by the Operators. Operators shall remit all room taxes to (i) the City's Director of Finance or (ii) to a Fiscal Agent on behalf of the City pursuant to a Fiscal Agency Agreement in accordance with the requirements of this ordinance and the Room Tax Act. Such ten percent (10%) Room Tax shall be allocated as follows:

1. A 2.85% Room Tax shall be imposed and allocated toward the support of the CVB, to be used for the promotion of the Fox Cities Tourism Zone as a tourism destination (the “CVB Room Tax”).

2. A 3% Room Tax shall be imposed (subject to sunset as provided in Sec. 18-68 hereof) and allocated toward payment of debt service on the Exhibition Center Bonds in accordance with a Pledge Agreement (the “Exhibition Center Room Tax”).
(3) A 3% Room Tax shall be imposed and allocated toward the support of amateur sports facilities within the Fox Cities Tourism Zone and/or other facilities which are reasonably likely to generate paid overnight stays at more than one hotel, motel, or other lodging establishment within the Fox Cities Tourism Zone (the "Tourism Facilities Room Tax").

(4) A 1.15% Room Tax shall be imposed and retained by the City to be used for general tourism support and development in the Fox Cities Tourism Zone in accordance with the requirements of the Room Tax Act (the "Municipal Room Tax").

The City or its Fiscal Agent shall forward the Room Taxes it has received, to be used as described above, to the following parties: (i) the CVB Room Tax to the CVB, (ii) the Exhibition Center Room Tax as required under the related Pledge Agreement, (iii) the Municipal Room Tax to the City, and (iv) the Tourism Facilities Room Tax to the Room Tax Commission or its designees on its behalf (including the CVB), or as otherwise required under a Pledge Agreement. (Ord 99-85, §1, 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16; Ord 40-18, §14-24-18)

Sec. 18-68. Expiration of Exhibit Center room tax.

The Exhibition Center Room Tax shall sunset and expire upon payment in full of all outstanding Exhibition Center Bonds and any related outstanding fees or expenses therefor, at which time the room tax shall be reduced by 3% with such reduction being deemed to be the share of the room tax allocated to the Exhibition Center Room Tax. Notwithstanding the foregoing, Operators may not discontinue collection of the Exhibition Center Room Tax until the City provides notice that the Exhibition Center Room Tax has been terminated by operation of this ordinance. After all outstanding Exhibition Center Bonds are paid in full, any excess Exhibition Center Room Tax revenues collected that are not needed to pay the Exhibition Center Bonds or any related outstanding fees or expenses shall be forwarded to the CVB and reallocated to the purposes of the Tourism Facilities Room Tax. (Ord 99-85, §1(2), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 38-00, §1, 5-20-00; Ord 106-15, §1, 1-1-16; Ord 40-18, §1, 4-24-18)

Sec. 18-69. Priority of payment.

(a) In the event any Operator fails to remit the entire room tax amounts due on any quarterly payment date under this ordinance, the City directs that the amounts actually received by the City (or its Fiscal Agent) shall be applied in the following priority order:

(1) first, to the CVB Room Tax until paid in full;

(2) second, to the Exhibition Center Room Tax, if any, until paid in full;

(3) third, to the Tourism Facilities Room Tax until paid in full; and

(4) fourth, to the Municipal Room Tax. (Ord 99-85, §1(3), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16; Ord 40-18, §1, 4-24-18)

Sec. 18-70. Tourism entity.

The CVB shall act as the "tourism entity," as that term is defined in the Room Tax Act, for purposes of providing staff, support services and assistance to the Room Tax Commission in developing and implementing programs to promote the Fox Cities Tourism Zone to visitors, as more fully set forth in an agreement between the Room Tax Commission and the CVB. The CVB may also hold and administer the Tourism Facilities Room Tax on behalf of the Room Tax Commission in furtherance of the purpose of the Tourism Facilities Room Tax, except when a related Pledge Agreement is in effect. (Ord 99-85, §1(4) – (6), 10-16-85; Ord 4-93, §1, 1-6-93, Ord 106-15, §1, 1-1-16; Ord 40-18, §1, 4-24-18)

Sec. 18-71. Collection and administration of room tax; operator reports.

This ordinance shall be administered by the City's Clerk. The room tax imposed by this ordinance shall be payable on each quarterly payment date to the City (or to a Fiscal Agent on behalf of the City pursuant to a Fiscal Agency Agreement). A report shall be filed by each Operator with the City's Director of Finance (or with a Fiscal Agent) on or before each quarterly payment date. Such report shall show the gross room receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of room tax imposed for such period, and such other information as the City deems necessary. Every Operator required to file such quarterly report shall, with its first report, elect to file an annual report based on either the calendar year or its fiscal year. Such annual report shall be filed within 90 days after the close of each such calendar or fiscal year. The annual report shall summarize the quarterly reports, shall reconcile and adjust for errors in the quarterly reports, and shall contain certain such additional information as the City requires. Such annual reports shall be signed by a representative of the Operator or its duly authorized agent, but need not be verified by oath. The City may, for good cause, extend the due date for filing any report, but in no event shall such extension be longer than one month after the due date. (Ord 99-85, §1(4) – (6), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16; Ord 40-18, §1, 4-24-18)
Sec. 18-72. Operator permit required.

Every Operator is required under this ordinance to file with the City's Clerk an application for a permit for each place of business that is required to pay room tax hereunder. Every application for a permit shall be submitted to the City's Clerk using a form prescribed by the City and shall set forth the name under which the Operator transacts or intends to transact business, the location of its place of business, and such other information as the City requires. The application shall be signed by the owner of the Operator if a sole proprietor and, if not a sole proprietor, by an authorized representative of such Operator. Together with the permit application, each Operator shall pay the City an initial fee of twenty dollars ($20) for each permit. A permit issued hereunder is non-transferable.
(Ord 99-85, §1(8) -- (10), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16; Ord 40-18, §1, 4-24-18)

Sec. 18-73. Penalty for violations.

In addition to the Schedule of Forfeiture described in Sec. 18-75 hereof, any Operator in violation of the terms of this ordinance by failing to obtain a permit shall be subject to a penalty not to exceed two hundred dollars ($200) for each violation. Each room or unit separately rented or offered for rent, and each day of such rental or offer for rental of such unit shall be a separate violation. In addition, injunctive relief is hereby authorized to discontinue any violation of this ordinance. Any Operator deemed to have violated any of the provisions of this ordinance shall be obligated to pay the costs of prosecution, in addition to actual attorney fees expended in the course of said enforcement. The City may revoke or suspend any permit issued hereunder for failure to comply with the provisions hereof.
(Ord 99-85, §1(11), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16; Ord 40-18, §1, 4-24-18)

Sec. 18-74. Liability for tax on sale or transfer of business.

If any Operator sells or transfers all or substantially all of its interest in its hotel, motel or other lodging accommodation, its successors or assigns shall withhold sufficient amounts from the purchase price to pay any amount of room tax liability due through the sale or transfer date until the Operator produces a receipt from the City's Director of Finance that its liability has been paid in full or a certificate stating that no room tax amount is due. If a successor Operator fails to withhold such amount from the purchase price as required, such successor Operator shall become liable for payment of the room tax amount it is required to withhold.
(Ord 99-85, §1(12)), 10-16-85; Ord 106-15, §1, 1-1-16; Ord 40-18, §1, 4-24-18)

Sec. 18-75. Schedule of forfeiture.

In addition to paying the room taxes due hereunder, any Operator that has failed to pay any Room Tax when due shall be required to pay a forfeiture in an amount equal to 25% of the Room Tax due from the Operator to the City for the previous year and unpaid, or five thousand dollars ($5,000), whichever is less, for failure to pay the room tax due hereunder.
(Ord 99-85, §1(13), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16; Ord 40-18, §1, 4-24-18)

Sec. 18-76. Confidentiality of information.

To the extent permitted under the law, the information provided to the City under Section 66.0615 (2) of the Wisconsin Statutes shall remain confidential; provided, however, that the City or any employee thereof may use such information in the discharge of duties imposed by law or of the duties of their office or by order of a court. Persons violating the provisions of this subsection may be required to forfeit not less than one hundred dollars ($100) nor more than five hundred dollars ($500).
(Ord 99-85, §1(14), 10-16-85; Ord 4-93, §1, 1-6-93; Ord 106-15, §1, 1-1-16; Ord 40-18, §1, 4-24-18)

Sec. 18-77. Enforcement

The City shall enforce this Ordinance in accordance with the Room Tax Act.
(Ord 99-85, §1(15), 10-16-85; Ord 106-15, §1, 1-1-16; Ord 40-18, §1, 4-24-18)

Secs. 18-78 – 18-79. Reserved.
DIVISION 3. MOTOR VEHICLE REGISTRATION FEE

Sec. 18-80. Authority.

This division is adopted pursuant to the authority granted by Wisconsin Statutes §341.35, as from time to time amended.

Sec. 18-81. Purpose.

The purpose of this ordinance is to provide the City of Appleton a source of revenue to be used to assist with existing road construction replacement.

Sec. 18-82. Definitions.

In this section, a “motor vehicle” means an automobile or motor truck registered under §341.25(1)(c) at a gross weight of not more than 8,000 lbs.

Sec. 18-83. Imposition of motor vehicle registration fee.

(a) Pursuant to §341.35 of the Wisconsin Statutes, an annual flat city registration fee as set forth herein, in the amount of twenty dollars ($20.00) is hereby imposed on all motor vehicles registered in the state of Wisconsin that are customarily kept in the city of Appleton.

(b) This fee shall be paid by the registration applicant at the time that a motor vehicle is first registered and at each time of registration renewal.

(c) The City registration fee shall be paid as provided in Wisconsin Statutes §341.35(5).

(d) The City registration fee shall be in addition to State registration fees.

Sec. 18-84. Administrative costs.

The Wisconsin Department of Transportation shall retain a portion of monies collected equal to the actual administrative costs related to the collection of these fees. The method for computing the administrative costs will be reviewed annually by the Wisconsin Department of Transportation, as provided in Wisconsin Statutes §341.35.

Sec. 18-85. Exemptions.

The following motor vehicles are exempt from the annual City of Appleton vehicle registration fee:

(a) All vehicles exempted by Wisconsin Statutes Chapter 341 from payment of a state vehicle registration fee.

(b) All vehicles registered by the State of Wisconsin under §341.26 for a fee of five dollars ($5.00).

(c) No City vehicle registration fee may be imposed on a motor vehicle which is a replacement for a motor vehicle for which a current City vehicle registration fee has been paid.

Sec. 18-86. Deposit of fee revenues.

All monies under the applicable statute and this chapter remitted to the City by the Wisconsin Department of Transportation or other applicable agency shall be deposited into the City's general fund and be used solely for assisting with existing road construction replacement.

Sects. 18-87 - 18-100. Reserved.

Editor’s Note: Article III, Division 3, generally known as the ‘Wheel Tax’ ordinance was adopted by the Appleton Common Council on October 1, 2014 and became effective for vehicles registered on or after January 1, 2015.
ARTICLE IV. SPECIAL ASSESSMENTS*

DIVISION 1. GENERALLY

Sec. 18-101. Levy and collection procedure.

The City, in levying and collecting special assessments for the construction and installation of public improvements in the City, shall proceed in the following manner:

(1) Whenever the Common Council shall deem it necessary in the best interest of the City to construct or cause to be constructed any such improvements, all or part of the cost of which is to be assessed against the property benefited, it shall adopt a preliminary resolution declaring its intention to exercise its power of assessment for such stated purpose. Such resolution shall contain the information required by W.S.A. §66.0703(4).

(2) Any and all persons who appear at the hearing shall be heard for or against the contemplated improvements and assessments.

(3) After the hearing upon any proposed work or improvement, the Common Council may approve, disapprove or modify the report or it may refer the report back to the Finance Committee with such directions as it deems necessary to accomplish a fair and equitable assessment.

(4) When the Common Council finally determines to proceed with the work or improvement, it shall by resolution direct the Finance Committee to proceed with such work or improvements, in accordance with the report as finally approved, and direct the Director of Public Works to determine the assessments. The City Clerk shall publish and mail the final resolution as provided for therein shall be deemed legally authorized and the assessments so provided shall be deemed duly and legally made, subject to the right of appeal provided for in W.S.A. §66.0701(2).

(5) Whenever the actual cost of any project shall, upon completion or after the receipt of bids, be found to vary materially from the estimates or whenever any assessment is void or invalid for any reason, or whenever the Common Council shall determine to reconsider and reopen any assessment, it shall do so only after first giving notice as provided in W.S.A. §66.0703(8)(d).

(6) If the cost of the project is less than the special assessment levied by the Common Council, without notice or hearing, shall reduce such special assessment proportionately, and when any assessments or installments thereof have been paid, the excess over cost shall be applied to reduce succeeding unpaid installments, where the property owner is paying in installments, or refunded to the property owner.

(7) Except as otherwise provided in this section, the special assessments may be paid in annual installments as provided in the special assessment policy. The first installment, if not sooner paid, shall be placed by the Director of Finance as a special charge in the first tax roll prepared after completion of the work, and one (1) of the subsequent installments shall be so placed in each of the annual tax rolls thereafter until all are levied. The first installment shall be due at the time the general property taxes are due, and the subsequent installments shall be due thereafter together with one (1) year’s interest at the rate set in the Special Assessment Policy per annum on the unpaid balance. Installments of assessments not paid when due shall be returned to the county as delinquent the same as delinquent taxes. Payment in full may be made at any time, but the property owner shall pay accrued interest, if any, on such payment, to the date of payment.

(8) Assessments in the amount less than that set annually by the Common Council in the assessment policy shall not be paid on the installment basis, and the Director of Finance shall place the assessment, as a special tax, in the first tax roll prepared after the publication of the final resolution of Common Council establishing the assessments.

(9) Property owners may submit waivers pursuant to W.S.A. §66.0703(7)(b), and if the owners of all of the property to be specially benefited by such work or improvement submit such waiver the Common Council may make the assessment without notice and hearing.

(Code 1965, §2.08; Ord 4-93, §1, 1-6-93; Ord 14-13, §1, 7-8-13)
Cross reference(s)-Streets, sidewalks and other public places, ch. 16; utilities, ch 20.
**State law reference- Special assessments, W.S.A. §66.0703 et seq.

Sec. 18-102. Reserved.

Editor's note—Ord 109-92. §1, adopted Oct. 7, 1992, which
pertained to deferred payments, repealed §18-102 in its entirety.

Secs. 18-103 – 18-115. Reserved.

DIVISION 2. SANITARY SEWERS*

Sec. 18-116. Assessment authorized; purpose.

In addition to the special assessments authorized pursuant to §18-101 et seq., there shall be an additional assessment for sanitary sewers based upon the area of the benefited property. The purpose of this area-based assessment is to recover in an equitable way the cost of interceptor sewers, feeder mains, lift stations and similar appurtenances which benefit a discrete area of the City.

Cross reference-Sewers and wastewater disposal, §20-66 et seq.

Editor's note: §18-117 & §18-118 relating to service districts and levy procedure, were repealed in their entirety by Ord 16-96, §1, 3-6-95.

(The next page is 1231.)
6. In lettering that is clearly visible at a distance of twenty (20) feet.

(b) **Passenger loading zones.**

(1) Passenger loading zones are established for the purpose of the expeditious loading or unloading of passengers.

(2) Motor vehicles may park in a passenger loading zone for no more than ten (10) minutes, unless a different period of time is designated by ordinance.

(Ord 130-12, §1, 12-11-12)

Secs. 19-96 – 19-105. Reserved.

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DIVISION 2. PARKING METERS AND CITY PARKING FACILITIES

Sec. 19-106. City-owned parking facilities.

The property owned by the City and used as public parking facilities for vehicles shall be described as follows:

(1) Yellow Ramp.

(2) Red Ramp.

(3) Library Plaza: the library parking lot. The parking lot is adjacent to the library and bounded on the east by North Oneida Street and on the west by North Appleton Street.

(4) Green Ramp.

(Code 1965, §10.06(1); Ord 136-89, §1, 10-18-89; Ord 145-93, §1, 9-15-93; Ord 146-93, §1, 9-15-93; Ord 137-95, §1, 12-20-95; Ord 155-01, §1, 9-10-01; Ord 102-10, §1, 7-13-10; Ord 113-12, §1, 10-23-12; Ord 111-18, §1, 1-1-19)


(a) The Common Council may authorize the installation, regulation, control, maintenance and use of parking meters and pay stations in the streets, public parking lots or public parking ramps as well as the use of mobile parking apps. Parking meters shall be placed next to individual parking places and shall display the hours and days of operation. Pay stations shall be located in the vicinity of the parking stalls which are controlled by it and shall also display the hours and days of operation.

(b) Each parking meter shall be so set as to display a signal showing legal parking upon the deposit of funds as specified in this section. Each meter shall be so arranged that, upon the expiration of the parking limit, it will indicate that the lawful parking period as fixed by the ordinance of the City has expired.

(c) When any vehicle shall be parked in a parking space next to a parking meter under the provisions of this section, the owner or operator of the vehicle shall, upon entering the parking space, immediately deposit the required funds whether directly in the meter, via pay station or app, and the person may use the parking space for the vehicle during the time limit or a fractional part thereof as provided in this division. If a vehicle remains parked in any parking space beyond the limit fixed by the ordinance of the City for such parking space, or fractional part thereof, depending on the funds deposited, the parking meter shall display a sign
showing illegal parking and in that event such vehicle shall be considered as having been parked overtime and beyond the time fixed in the ordinance by the City and the parking of a vehicle overtime or beyond the time fixed by the ordinance of the City in any such part of a street where any such meter is located shall be in violation of this section.

(d) No person shall deposit funds for the purpose of extending the parking time beyond the time limit fixed in this division for parking in the parking space for which a parking meter is placed.

(e) Official markings. When markings upon the curb or the pavement of a street designate a parking space, no person shall stand or park a vehicle in such designated parking space so that any part of the vehicle occupies more than one space or protrudes beyond the markings designating such a space, except that a vehicle which is of a size too large to be parked within a single designated parking space shall be parked with the front bumper at the front of the space with the rear of the vehicle extending as little as possible into the adjoining space to the rear, or vice-versa, and shall be responsible for depositing the required funds into the parking meters for both occupied stalls. Notwithstanding the above, no vehicle that is too long and/or too wide to be parked within a single designated parking space shall be parked in such a space which is designated for angle parking.

(f) No person shall deposit or cause to be deposited in any parking meter any slug, device or metallic substitute for a coin of the United States with the exception of City-approved tokens.

(g) No person shall deface, injure, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter installed under this section.

(h) All parking meter, parking pay station and mobile parking app revenues shall be kept in a separate fund called the parking revenue fund. The purpose of the fund shall be for the purchase, maintenance, operation, enforcement, administration and construction of all parking facilities. The Common Council may, from time to time, direct the fund to be used for other purposes relating to parking facilities, including the right to pledge parking revenues for the payment of bonds issued for the construction of parking facilities. No unexpended funds are to be returned to the general funds. All earnings, upon the investment of unexpended funds, shall constitute an addition to the fund.

(i) "Parking Pay Stations"

(1) No person shall, in any parking space

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controlled by a "Parking Pay Station," park a vehicle without purchasing the amount of parking time desired from such machine.

(2) No person shall, in any parking space controlled by a "Parking Pay Station," which allows a person to purchase the amount of parking time desired from a machine that dispenses a receipt, park a vehicle in excess of the amount of time indicated on such receipt, or on posted signs.

(Code 1965, §10.07(1) - (8); Ord 137-95, §1, 12-20-95; Ord 114-12, §1, 10-23-12; Ord 58-17, §1, 9-12-17)

Cross reference(s) - Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18; director of public works, §2-291 et seq.

Sec. 19-108. Same - suspension of fees on certain days.

All parking meter fees will be suspended for the twenty-four-(24-) hour period beginning at midnight preceding and ending at midnight following on Sundays and on the following holidays:

(1) New Year's Day.

(2) Memorial Day.

(3) Independence Day.

(4) Labor Day.

(5) Thanksgiving Day.

(6) Christmas Day.

(Code 1965, §10.07(12))

Sec. 19-109. Hours of operation of metered parking facilities.

(a) On-street metered parking: 9:00 a.m. to 6:00 p.m. Monday through Saturday, excluding City observed holidays (see §19-108).

(b) Off-street metered parking lots: 9:00 a.m. to 6:00 p.m. Monday through Saturday, excluding City observed holidays (see §19-108).

(Code 1965, §10.07(10)(a); Ord 71-89, §1(A), 6-7-89; Ord 36-92, §1, 3-18-92; Ord 137-95, §1, 12-20-95; Ord 156-01, §1, 9-10-01; Ord 22-04, §1, 2-10-04; Ord 115-12, §1, 10-23-12; Ord 531-15, §1, 6-23-15; Ord 112-18, §1, 1-1-19)
Sec. 19-110. Metered on-street parking.

The time limits for operation of parking meters are as authorized by the Common Council and as specified on individual meters.

(a) Red head meters – Fee. A rate of fifty cents ($0.50) for thirty (30) minutes shall apply to all spaces marked with red head meters in the Central Business District.

(b) Non-red head meters – Fee.

1. For all on-street meters north of Washington Street, a rate of twenty-five cents ($0.25) for each hour shall apply to all spaces marked with non-red head meters.

2. All other meters shall have a rate of one dollar ($1.00) for each hour and shall apply to all spaces marked with non-red head meters.

(Code 1965, §10.07(10)(b); Ord 107-91, §1, 10-16-91; Ord 115-91, §1, 11-6-91; Ord 147-93, §1, 9-15-93; Ord 149-93, §1, 9-15-93; Ord 234-95, §1, 12-20-95; Ord 234-95, §2, 9-15-93; Ord 104-10, §1, 1-1-91; Ord 64-13, §1, 6-23-15; Ord 113-18, §1, 1-1-91)

Sec. 19-111. Metered off-street parking.

The time limits for operation of parking meters are as authorized by the Common Council and as specified on individual meters.

(a) Library lot fees. A rate of one dollar ($1.00) per hour shall apply to all non-red head meters in the Library lot. A rate of fifty cents ($0.50) for thirty minutes shall apply to all spaces marked with red head meters in the Library lot.

(Code 1965, §10.07(11)(a), (b); Ord 138-89, §1, 10-18-89; No. of 1-24-90; Ord 114-91, §1, 11-6-91; Ord 36-92, §2, 3-18-92; Ord 118-93, §1, 7-21-93; Ord 149-93, §1, 9-15-93; Ord 150-93, §1, 9-15-93; Ord 181-93, §1, 11-3-93; Ord 157-91, §1, 9-10-91; Ord 24-04, §1, 2-10-04; Ord 105-10, §1, 1-1-11; Ord 116-12, §1, 10-23-12; Ord 65-13, §1, 8-13-13; Ord 114-18, §1, 1-1-91)

Sec. 19-112. Non-metered off-street parking.

(a) The rates and regulations for non-metered off-street parking facilities owned by the City may be established by the Common Council and shall be on file in the office of the Department of Public Works.

(b) Any vehicle which has not been moved and/or is left unattended in any City-owned non-metered off-street parking facility for more than thirty (30) days shall be considered to be abandoned, and shall be dealt with pursuant to the provisions of Chapter 12, Article V of this Municipal Code.

(Code 1965, §10.07(11)(a); Ord 137-89, §1, 10-18-89; Mo. of 1-24-90; Ord 36-92, §3, 3-18-92; Ord 151-93, §1, 9-15-93; Ord 117-12, §1, 10-23-12)

Sec. 19-113. Parking permits.

(a) Sale of permits; types. Except as otherwise provided in this section, off-street parking permits shall be issued by the Department of Public Works. The types of permits and the cost for the different types of permits shall be on file in the Department of Public Works.

(b) – (j) Reserved.

Sec. 19-114. Loitering in off-street parking facilities prohibited.

No person shall enter, remain in or upon, loiter, stand, sit, lie, remain or otherwise occupy any off-street parking facilities except for the purpose of motor vehicle parking and the necessary ingress and egress for parking.

(Code 1965, §10.07(11)(c)(1)(a.4)

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

ARTICLE IV. TRUCK ROUTES

Sec. 19-136. Generally.

The Common Council may designate heavy traffic routes other than state trunk highways for the movement of commercial motor vehicles. Whenever such heavy traffic routes shall be established, the Traffic Engineer shall certify such routes to the Chief of the Police Department. The routes so established shall be known as truck routes and the operator of any commercial motor vehicle having a gross weight of at least fifteen thousand (15,000) pounds, other than buses, shall drive on such routes and no other except when it is impractical to do so or when necessary to obtain orders for supplies or for moving or delivering supplies or commodities to or from any place of business or residence fronting on any such route.
(Code 1965, §10.12)

Sec. 19-137. Routes enumerated.

The truck routes established pursuant to this article are as follows:

Alliance Drive from Milis Drive to Vantage Drive.

Appleton Street from Washington Street to Lawrence Street.

Badger Avenue from Wisconsin Avenue to Memorial Drive.

Ballard Road from Wisconsin Avenue to the north City limits.

Bluemound Drive from College Avenue to the north City limits.

Calumet Street from Oneida Street to the east City limits.

Capitol Drive from Ballard Road to Zuehlke Drive.

College Avenue from the west City limits to the east City limits.

Commercial Street from Meade Street to Rankin Street.

Conkey Street from Pershing Street to Venture Drive.

Douglas Street from Spencer Street to Melvin Street.

Eisenhower Drive from Midway Road to Calumet Street (CTH KK).
DIVISION 2. RATES AND CHARGES

Sec. 20-236. Rate charges.

(a) By this ordinance, the Common Council is establishing the rate charge upon each lot and parcel within the City of Appleton for services and facilities provided by the Stormwater Utility. The actual charges to be imposed, the establishment of formulas for calculations of the charges, the establishment of specific customer classifications and any future changes in those rates, formulas, rate charges, and customer classifications, may be made by resolution. All rates established pursuant to this ordinance will be fair and reasonable. The current rates will be on file with the City Clerk.

(b) Rate charges shall be issued to share the costs of the Stormwater Utility. These rate charges may include:

(1) **Base Charge (BC)** – The base charge may be imposed on all property in the city. The base charge will be designed to reflect the fact that all properties benefit from the stormwater management activities of the City and that all property contribute in some way to the stormwater discharge that must be managed by the City. The BC will be designed to collect the administrative costs of the storm sewer utility and the portion of capital costs not covered by special assessments. The BC may be based on the size of a parcel of property.

(2) **Equivalent Runoff Unit Charge (ERU)** – This charge may be imposed on all property that has any developed impervious area. The ERU will be designed on the basis of a typical residential unit of property. Other units of property will be charged multiples of the ERU based on the impervious area contributing to surface water runoff.

(3) **Special Charge (SC)** – This charge may be imposed on property that is in an area specially benefited by a particular stormwater management facility. The SC will be developed to reflect the benefits/services in a particular area that may not be appropriate to spread to property throughout the City. The SC will be calculated on an ERU basis.

(c) The Council may make such other and customer classifications as will be likely to provide reasonable and fair distribution of the costs of the Stormwater Utility. In so doing, the Council may provide credits against certain of the charges set forth above for facilities installed and maintained by the property owner for the purpose of lessening the stormwater flow from that given property.

(d) The City Department of Finance is hereby appointed as the collection agency for the City Stormwater Utility. Bills shall be prepared by the Department of Finance and sent to the owner or occupant of each premise served. The Department of Finance shall allocate the actual cost of billing and collecting.

(e) The bills for Stormwater Utility charges shall be mailed to the designated utility bill recipient, but this mailing shall not relieve the owner of the property from liability for rental property in the event payment is not made as required in this article. The owner of any property served which is occupied by tenants shall have the right to examine collection records of the City for the purpose of determining whether such rates and charges have been paid for such tenants, provided that such examination shall be made at the office at which the records are kept and during the hours that such office is open for business.

(f) Stormwater Utility charges shall not be payable in installments. If Stormwater Utility charges remain unpaid after a period of twenty (20) days from the date of utility bill, such bill shall become a delinquent special charge and shall become a lien as provided in W.S.A. §66.66(15). Said charges shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charges. Unpaid charges shall be assessed a one and one-half percent (1 1/2%) per month late payment charge to bills not paid within twenty (20) days of issuance.

(g) All delinquent special charges shall be subject to a ten percent (10%) penalty in addition to all other charges and prior penalties or interest when the delinquent special charge is extended upon the tax roll.

Sec. 20-237. Customer classification.

(a) For purposes of imposing the stormwater charges, all lots and parcels within the City are classified as follows:

<table>
<thead>
<tr>
<th>Classification</th>
<th>ERUs imposed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Public Road</td>
</tr>
<tr>
<td>Single Family</td>
<td>1</td>
</tr>
<tr>
<td>Detached</td>
<td>1</td>
</tr>
<tr>
<td>Individual</td>
<td></td>
</tr>
<tr>
<td>Condominiums</td>
<td>.5/unit</td>
</tr>
<tr>
<td>Duplex</td>
<td>.5/unit</td>
</tr>
<tr>
<td>Duplex</td>
<td></td>
</tr>
<tr>
<td>Condominiums</td>
<td></td>
</tr>
<tr>
<td>Multifamily</td>
<td>Actual impervious area of the property using aerial photography</td>
</tr>
</tbody>
</table>
### ERUs imposed

<table>
<thead>
<tr>
<th>Classification</th>
<th>Public Road</th>
<th>Private Road</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mobile Homes</td>
<td>.5/unit</td>
<td>1/unit</td>
</tr>
<tr>
<td>Bed &amp; Breakfast (fewer than 5 units)</td>
<td>1</td>
<td>1/unit</td>
</tr>
<tr>
<td>Bed &amp; Breakfast (5 units or more)</td>
<td>.5/unit</td>
<td>1/unit</td>
</tr>
<tr>
<td>Multifamily rental</td>
<td>Actual impervious area of the property using aerial photography</td>
<td></td>
</tr>
<tr>
<td>Non-Residential and Multi-Use</td>
<td>One (1) ERU, multiplied by the numerical factor obtained by dividing the total impervious area of a non-residential property by the square footage of one (1) ERU, rounded down to the nearest one-tenth (0.1), i.e.: ERU rate x impervious area ERU</td>
<td>One (1) ERU, multiplied by the numerical factor obtained by dividing the total impervious area of a non-residential property by the square footage of one (1) ERU, rounded down to the nearest one-tenth (0.1), i.e.: ERU rate x impervious area ERU</td>
</tr>
<tr>
<td>Undeveloped</td>
<td>One (1) ERU multiplied by a factor established by resolution then divided by the square footage for one (1) ERU established by resolution</td>
<td>One (1) ERU multiplied by a factor established by resolution then divided by the square footage for one (1) ERU established by resolution</td>
</tr>
</tbody>
</table>

Sec. 20-238. New construction.

(a) The property owner shall be responsible for completing the stormwater utility service application form any time a building permit is issued, exclusive of those issued to existing single family residences, or a site plan review is conducted. The form shall be provided by the Division of Inspections with each application for a building permit (exclusive of building permits for single family residences) or application for site plan review. Failure to submit a completed stormwater utility service application form or providing false information on said form, shall result in the penalty as provided in §1-18 of the Municipal Code.

(Ord 129-95, §1, 12-9-95; Ord 132-96, §1, 12-18-96)

(b) The owner shall also be liable for stormwater charges, under this ordinance, for the improvement from the date construction of the improvement began.

Sec. 20-239. Method of appeal.

(a) The Stormwater Utility charge may be appealed as follows:

1. A written appeal shall be filed with the City Clerk prior to the utility charge due date; or

2. Within thirty (30) days of payment, a written challenge to the stormwater charge must be filed with the City Clerk on behalf of the customer, specifying all bases for the challenge and the amount of the stormwater charge the customer asserts is appropriate. Failure to file a challenge within thirty (30) days of payment waives all rights to later challenge the charge.

(b) The committee of jurisdiction will determine whether the stormwater charge is fair and reasonable, or whether a refund is due the customer. The committee may act with or without a hearing, and will inform the customer in writing of its decision.

(c) The customer has thirty (30) days from the decision of the committee to file a written appeal to the Common Council.

(d) If the Council or the committee determine that a refund is due the customer, the refund will be applied as a credit on the customer’s next quarterly stormwater billing, if the refund will not exceed the customer’s next quarterly stormwater billing, or will be refunded at the discretion of the Director of Finance.

(e) The period for determining a refund pursuant to this section shall be limited to up to the customer’s prior
Sec. 20-240. Special assessment authority.

In addition to any other method for collection of the charges established pursuant to this ordinance for stormwater utility costs, the Common Council finds that these charges may be levied on property as a special charge pursuant to §66.0627, Wis. Stats. The charges established hereunder reasonably reflect the benefits conferred on property and may be assessed as special charges. The mailing of the bill for such charges to the owner will serve as notice to the owner that failure to pay the charges when due may result in them being charged pursuant to the authority of §66.0627, Stats. In addition, the City may provide notice each September of any unpaid charges to the Stormwater Utility, which charges, if not paid by November 15, may be placed upon the tax roll under §66.0627, Stats.

Sec. 20-241. Budget excess revenues.

The stormwater utility finances shall be accounted for in a separate Stormwater Enterprise Fund by the City. The Utility shall prepare an annual budget, which is to include all operation and maintenance costs, debt service and other costs related to the operation of the stormwater utility. The budget is subject to approval by the Common Council. The costs shall be spread over the rate classifications as determined by the Council. Any excess of revenues over expenditures in a year will be retained by the Stormwater Enterprise Fund for subsequent years’ needs.

Sec. 20-242. Severability.

If any provision of this ordinance be found illegal, the remaining provisions shall remain in effect.

(Ord 128-95, §1, 12-6-95)
other urban pollutants.

(c) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.

(d) Reduce the quality of groundwater by increasing pollutant loads.

(e) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other drainage facilities.

(f) Threaten public health, safety, property and general welfare by increasing major flood peaks, and volumes.

(g) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

(Ord 188-03, §1, 10-21-03; Ord 42-16, §1, 5-1-16)

Sec. 20-302. Purpose and intent.

(a) Purpose. The purpose of this ordinance is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare, and the aquatic environment.

Specific purposes are to:

(1) Further the maintenance of safe and healthful conditions.

(2) Prevent and control the adverse effects of stormwater; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; manage building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.

(3) Control exceedances of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.

(4) Minimize the amount of pollutants discharged from the separate storm sewer to protect waters of the state.

(b) Intent. It is the general intent of the City of Appleton that this ordinance achieve its purpose through:

(1) Regulating long-term, post-construction stormwater runoff from land development and redevelopment activities.

(2) Controlling the quantity, peak flow rates, and quality of stormwater runoff from land development and redevelopment activities.

(3) Providing services to maintain and enhance the quality of life within the community.

(c) Implementation.

To this end the City of Appleton will manage post-construction stormwater runoff to protect, maintain and enhance the natural environment; diversity of fish and wildlife; human life; property; and recreational use of waterways within the city of Appleton and its extraterritorial area.

This ordinance may be applied on a site-by-site basis. The City of Appleton recognizes, however, that the preferred method of achieving the stormwater performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional stormwater devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the State of Wisconsin. Where such plans are in conformance with the performance standards developed under §281.16, Wis. Stat., for regional stormwater management measures, and have been approved by the City of Appleton, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

(Ord 188-03, §1, 10-21-03; Ord 42-16, §1, 5-1-16)

Sec. 20-303. Title.

This ordinance shall be known as the Stormwater Management Standards and Planning Ordinance for the City of Appleton.

(Ord 188-03, §1, 10-21-03; Ord 42-16, §1, 5-1-16)

Sec. 20-304. Definitions.

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

Adequate sod, or self sustaining vegetative cover means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen
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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 of Community Development Department were changed to Community and Economic Development Director or Community and Economic Development Department pursuant to Ordinance No. 32-12, adopted April 4, 2012, published April 9, 2012 and effective April 10, 2012.

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ZONING

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.
(2) Residential dwellings at least ten (10) feet above the street grade of the building.

(3) Home occupation pursuant to §23-45.

(4) Outdoor storage and display pursuant to §23-46.

(5) Fences and walls pursuant to §23-44.

(d) Temporary uses and structures. Temporary uses and structures specified in §23-54 may be permitted in the C-2 District.

(e) Special uses. Special uses in the C-2 district may include:

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Public and Semi Public Uses</th>
<th>Non-Residential Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>• None.</td>
<td>• Educational institutions; elementary school, junior high school or high school.</td>
<td>• Amusement arcades.</td>
</tr>
<tr>
<td></td>
<td>• Essential services.</td>
<td>• Any principal building that exceeds thirty-five (35) feet in height.</td>
</tr>
<tr>
<td></td>
<td>• 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.</td>
<td>• Automobile, RV, truck, cycle, boat sales and display lots, new pursuant to §23-66(h)(5).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Automobile, RV, truck, cycle, boat sales and display lots when including used vehicles pursuant to §23-66(h)(5).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Bar or taverns pursuant to §23-66(h)(6).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Body repair and/or paint shops pursuant to §23-66(h)(4).</td>
</tr>
<tr>
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<td></td>
<td>• Bus terminals.</td>
</tr>
<tr>
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<td>• Car washes.</td>
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<tr>
<td></td>
<td></td>
<td>• 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).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Electronic towers pursuant to §23-66(h)(1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Freight distribution and/or moving centers.</td>
</tr>
<tr>
<td></td>
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<td>• Gasoline sales pursuant to §23-66(h)(8).</td>
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<td></td>
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<td>• Helicopter landing pads pursuant to §23-66(h)(9).</td>
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<tr>
<td></td>
<td></td>
<td>• Indoor kennels.</td>
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<td></td>
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<td>• Landscape business.</td>
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<tr>
<td></td>
<td></td>
<td>• Manufacturing, light.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Microbreweries.</td>
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<td></td>
<td></td>
<td>• Mobile home sales lots.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Outdoor commercial entertainment pursuant to §23-66(h)(11).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Parking garages.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Personal storage facility (self storage/mini-warehouse), including outdoor storage areas for recreational vehicles pursuant to §23-66(h)(18).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Recycling collection points pursuant to §23-66(h)(14).</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Public and Semi Public Uses</th>
<th>Non-Residential Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>• Recycling and waste recovery centers pursuant to §23-66(h)(13).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Research laboratories or testing facilities.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Restaurants with alcohol pursuant to §23-66(h)(6).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Sexually-oriented establishments pursuant to Article XII.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Shelter facility.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Towers or antennas for wireless telecommunication services, pursuant to Article XIII.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Wholesale facilities.</td>
</tr>
</tbody>
</table>

(f) **Site plan.** Prior to obtaining a building permit on any land in the C-2 district, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) **Parking, loading, and landscape standards.** Off-street parking and loading requirements are set forth in §23-172, Off-street parking and loading standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(h) **Development standards.** The space limits applicable in the C-2 district are as follows:

1. **Minimum lot area.** Fourteen thousand (14,000) square feet.
2. **Maximum lot coverage.** Seventy-five percent (75%).
3. **Minimum lot width.** Sixty (60) feet.
4. **Minimum front yard.** Ten (10) feet.
5. **Minimum rear yard.** Twenty (20) feet.
6. **Minimum side yard.**
   a. None.
   b. Ten (10) feet if abutting a residentially zoned district.
7. **Maximum building height.** Thirty-five (35) feet (See §23-113 (e)).

(Ord 121-05, §1, 10-25-05; Ord 100-08, §1, 5-27-08; Ord 139-08, §1, 10-7-08; Ord 156-08, §1, 10-7-08; Ord 206-11, §1, 9-27-11; Ord 207-11, §1, 9-27-11; Ord 58-12, §1, 6-6-12; Ord 72-13, §1, 8-13-13)

Sec. 23-114. CBD central business district.

(a) **Purpose.** This district is intended to provide a centrally located and readily accessible area that offers a wide variety of retail, service, financial, entertainment, 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:

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Public and Semi Public Uses</th>
<th>Non-Residential Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Assisted living or retirement homes.</td>
<td>• Clubs.</td>
<td>• Automobile maintenance shops.</td>
</tr>
<tr>
<td>• Nursing or convalescent homes.</td>
<td>• Day care, group.</td>
<td>• Commercial entertainment; excluding sexually-oriented establishments.</td>
</tr>
<tr>
<td>• Dwelling, multi-family, of three</td>
<td>• Educational institutions; college or university.</td>
<td></td>
</tr>
</tbody>
</table>

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(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.

- 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.
- Drive through facilities pursuant to §23-49.
- Hotel or motels.
- Multi-tenant building.
- Offices.
- Personal services.
- Printing.
- Professional services.
- Restaurants (without alcohol).
- Restaurant, fast foods.
- Retail businesses.
- Shopping centers.
- Urban farms pursuant to §23-66(h)(17).
- Veterinarian clinics.

(c) **Accessory uses.** Accessory uses in the CBD district may include:

1. The accessory uses, buildings and structures set forth in §23-43 are permitted as of right in the CBD district.
2. Residential dwellings at least ten (10) feet above the street grade of the building.
3. Home occupations pursuant to §23-45.
4. Fences and walls pursuant to §23-44.

(d) **Temporary uses and structures.** Temporary uses and structures specified in §23-54 may be permitted in the CBD District.

(e) **Special uses.** Special uses in the CBD district may include:

<table>
<thead>
<tr>
<th>Residential Uses</th>
<th>Public and Semi Public Uses</th>
<th>Non-Residential Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>• None.</td>
<td>• Educational institution; elementary school, junior high school or high school.</td>
<td>• Amusement arcade.</td>
</tr>
<tr>
<td></td>
<td>• Essential services.</td>
<td>• Automobile, RV, truck, cycle, boat sales and display lot, new pursuant to §23-66(b)(5).</td>
</tr>
<tr>
<td></td>
<td>• Hospital.</td>
<td>• Automobile, RV, truck, cycle, boat sales and display lot when including used vehicles pursuant to §23-66(h)(5).</td>
</tr>
<tr>
<td></td>
<td>• Marina and/or boat landing.</td>
<td>• Bar or Tavern pursuant to §23-66(h)(6).</td>
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<td>• Body repair and/or paint shop pursuant to §23-66(h)(4).</td>
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<td>• Bus terminal.</td>
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<td>• Electronic towers pursuant to §23-66(h)(1).</td>
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<td>• Gasoline sales pursuant to §23-66(h)(8).</td>
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<td>• Indoor kennel.</td>
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<td>• Manufacturing, custom pursuant to §23-66(h)(16).</td>
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<td>• Microbrewery.</td>
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<td>• Outdoor commercial entertainment pursuant to §23-66(h)(11).</td>
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<td>• Parking garage.</td>
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<td>• Parking lot; however, surface lots are prohibited on lots fronting on College Avenue.</td>
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<tr>
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<td>• Recycling collection point pursuant to §23-66(h)(14).</td>
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<tr>
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<td>• Research laboratories or testing.</td>
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</table>
(f) Site plan. Prior to obtaining a building permit on any land in the CBD, a site plan shall be required in accordance with §23-570, Site plan review and approval.

(g) Parking and loading requirements. Provision for off-street parking and loading spaces are not required for uses in the CBD.

(h) Landscape standards. Landscaping requirements are set forth in §23-601, Landscaping and screening standards.

(i) Development standards. The space limits applicable in the CBD are as follows:

1. Minimum lot area. Two thousand four hundred (2,400) square feet.
2. Maximum lot coverage. One hundred percent (100%).
3. Minimum lot width. Twenty (20) feet.
5. Minimum rear yard.
   a. None.
   b. Ten (10) feet when abutting a residentially-zoned district.
   a. None.
   b. Ten (10) feet when abutting a residentially-zoned district.

7. Maximum building height. Two hundred (200) feet.

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:

(c) Accessory uses. Accessory uses, buildings and structures permitted in the parking district include:

1. Earthen berm.
February 2009, volume number 55015CV000A.

b. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0304E, and 55087C0308E dated January 20, 2016; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated January 20, 2016, volume number 55087CV000B.

c. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0309D, 55087C0314D, 55087C0316D, 55087C0317D, 55087C0318D, 55087C0319D, 55087C0330, 55087C0338D, 55087C0427D, 55087C0431D and 55087C451D dated July 22, 2010; with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A.

d. Outagamie County Flood Insurance Rate Map (FIRM) panel numbers 55087C0328D, 55087C0329D, 55087C0336D, 55087C0337D dated July 22, 2010 and revised August 23, 2013 with corresponding profiles that are based on the Outagamie County Flood Insurance Study (FIS) dated July 22, 2010 volume number 55087CV000A, all revised and annotated pursuant to FEMA Letter of Map Revision Determination Document Case No: 12-05-6032P, Issue Date April 10, 2013, Effective Date August 23, 2013.

e. LOMR – Case #11-05-7670P, Floodway and Floodplain revisions between Flood Insurance Study (FIS) Cross Section AW to BA, Outagamie County Flood Insurance Rate Map (FIRM) panels 55087C0318D and 55087C0319D, dated July 22, 2010. This reflects changes on the Fox River from just downstream of the Private Middle Dam to approximately 250 feet upstream of the Appleton Upper Dam.

f. LOMR – Case #13-05-7920P, Floodplain revisions between Flood Insurance Study (FIS) Cross Section AN to AM, Outagamie County Flood Insurance Rate panels 55087C0319D, dated July 22, 2010. This reflects changes along the south side of the Fox River from the College Avenue Bridge to approximately 850 feet downstream.

g. City of Appleton Kensington Pond Dam Break Analysis Hydraulic Shadow, Per Figure F-9 of Dam Failure Analysis and Assignment of the Hazard Rating for Kensington Pond Dam, by Earth Tech, dated January 2008, on file with City of Appleton Department of Public Works.

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

i. 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.

(2) Official Maps based on other studies:

a. Outagamie County Flood Storage District Map Panel 1 of 2 approved by Wisconsin Department of Natural Resources and dated January 20, 2016. Prepared by DNR, approved by DNR.

c. Establishment of districts. The regional floodplain areas are divided into four (4) districts as follows:

(1) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
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(2) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.

(3) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.

(4) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(d) Locating floodplain boundaries. Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (1) or (2) below. If a significant difference exists, the map shall be amended according to Division 8. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to §23-293(e) and the criteria in (1) and (2) below.

(1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.

(2) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection, field topographic survey, and any information provided by the Department.

Note: Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to §23-305(f).

(e) Removal of lands from floodplain. Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Division 8.

Note: This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

(f) Compliance. Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

(g) Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if §13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when §30.2022, Stats., applies.

(h) Abrogation and greater restrictions.

(1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under §62.23, Stats. which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(2) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(i) Interpretation. In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
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(j) **Warning and disclaimer of liability.** The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this ordinance create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(k) **Severability.** Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(l) **Annexed areas for cities and villages.** The Calumet, Outagamie and Winnebago Counties floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

(m) **General development standards.** The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a floodplain area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

(Ord 54-06, §1, 3-21-06; Ord 20-09, §1, 1-21-09; 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)

Secs. 23-207 – 23-220. Reserved.
DIVISION 2. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

Sec. 23-221. Hydraulic and hydrologic analyses.

(a) Except as allowed in par. (c) below, no floodplain development shall:

(1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or

(2) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.

(b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (c) are met.

(c) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Division 8.

Note: This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR, as appropriate. (Ord 54-06, §1, 3-21-06)

Sec. 23-222. Watercourse alterations.

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained. It shall be the responsibility of the person altering the watercourse, to provide the technical or scientific data necessary, to the Zoning Administrator. All data shall be prepared and submitted by a Wisconsin licensed engineer.

As soon as is practicable, but not later than six (6) months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required. (Ord 54-06, §1, 3-21-06)

Sec. 23-223. Chs. 30, 31 Wis. Stats., development.

Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to Division 8.0. (Ord 54-06, §1, 3-21-06)

Sec. 23-224. Public or private campgrounds.

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

(a) The campground is approved by the Department of Health Services.

(b) A land use permit for the campground is issued by the zoning administrator.

(c) The character of the river system and the elevation of the campground is such that a seventy-two (72-) hour warning of an impending flood can be given to all campground occupants.

(d) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood Supp. #89
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ARTICLE XIV. SIGNS*

DIVISION I. INTRODUCTORY INFORMATION

Sec. 23-500. Purpose.

The purpose of these sign regulations is to provide comprehensive and balanced sign regulations that will preserve the right of free speech and expression; 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.
(Ord 34-18, §1, 4-10-18)

Sec. 23-501. No discrimination against non-commercial signs or speech.

The owner of any sign which is otherwise allowed under this Article XIV 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-site commercial message in place of an on-site commercial message.
(Ord 34-18, §1, 4-10-18)

Sec. 23-502. Severability.

If any portion of this Article XIV 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 XIV and should in no way affect or diminish the validity of the remainder of Article XIV or any other sign regulation set forth herein.
(Ord 34-18, §1, 4-10-18)

Sec. 23-503. 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.
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 Article II of this chapter. 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 burning continuously.

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, used to report scores and often to promote businesses to viewers of the events.

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. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

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 means an off premise sign.

Building marker sign means any sign indicating a building’s name, date, or any incidental information about its construction that is engraved into a masonry surface or made of bronze or other permanent material.

Changeable copy sign 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 audience.

Construction sign means a temporary sign on private property describing a construction or improvement project that includes the names of the contractors, architects, engineers, investors and/or future tenant(s).

Copy means the wording or graphic content on a sign surface.

Department in this article means the City of Appleton Inspections Division.
Display time means the amount of time words, symbols, figures, or images are displayed on an electronic message board.

Directional sign means a sign providing general information, such as “no parking”, “parking areas”, “entrance”, “exit”, “truck and passenger loading/unloading areas”, “identification names”, “numbers or names of occupants”, “signs posted on private property relating to private parking or warning the public against trespass or danger of animals”, “neighborhood crime watch signs” or other messages or symbols necessary to direct vehicles or pedestrians to, through or within a site. Company names and logos may be displayed on directional signs.

Directory sign means a sign listing the names, use or location of business, tenants, owners, renters and/or activities with a building or group of buildings or multi-tenant building or development.

Electronic message board means a 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.

Event sign means a temporary sign that directs attention to an occurrence generally regarded and acceptable as important, newsworthy and of public service that can reasonably be expected to cause a public gathering that is not part of the normal course of business at the location or otherwise an event issued a City Special Event License.

Flag means a piece of fabric having distinctive colors and patterns used as a symbol of a government, political subdivision or other entity.

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 and primarily identifies a business or company to freeway users.

Frontage means that boundary of a lot that abuts a dedicated public street. The public right-of-way may include frontage roads.

Ghost sign means a hand-painted sign that remains from an earlier time or advertises the use of a building wall on or before January 22, 2000, and is still present on the wall, indicating a previous use of the building, or advertising a product or activities of the community.

Ground sign 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 means the vertical distance measured from the normal grade to the highest point of the sign.

Historic marker signs means a sign identifying 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 sign advertising a legally permitted home occupation pursuant to §23-45 of this chapter.
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Interpretive signs mean a sign providing information that interprets a natural, historical or cultural resource, event or site. Such signs shall be located only on sites directly related to the information contained in the sign.

Inspections Supervisor means the City of Appleton Inspections Supervisor or designee.

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 providing menu items and prices associated with a drive-through window or walk-up service window.

Monument signs means a ground sign with the bottom of the sign a maximum of twelve (12) inches from normal grade.

Multi-tenant means a building with more than one (1) tenant that utilizes wall, projecting, canopy or ground signage.

Mural means a picture, illustration, design, representation and/or copy painted or drawn directly onto the surface of an exterior building wall that does not contain commercial messages or commercial speech. Definition of Mural does not include:

1. Public art and/or murals installed or located, and approved in accordance with the City of Appleton Public Arts Policy.

Mural sponsorship signs means a sign located on or attached to an exterior building wall that identifies a person’s name, business name, association, logo, and/or corporate slogan displayed at the site of a mural that identifies a sponsor in recognition of the sponsor’s financial support of the mural.

Neighborhood and park identification signs means a sign that identifies a neighborhood or park that is officially designated by the city or approved pursuant to the City of Appleton Land Division and Subdivision Ordinance.

Noncommercial copy means any copy which is not a commercial message as defined herein.

Noncommercial speech mean any message 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-site or 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-site 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-site 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-site or 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 that contains commercial messages or commercial speech. Definition of painted wall sign does not include:

1. Public art and/or murals installed or located, and approved in accordance with the City of Appleton Public Arts Policy.

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.

Personal expression signs means an on-premises sign that expresses an opinion, interest, position, or other non-commercial message.

Plot plan means a scaled drawing of a parcel that depicts all elements on and surrounding the parcel.

Portable sign means a temporary sign lit or unlit designed to be transported, including, but not limited to, signs designed to be transported by means of wheels.

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 storage buildings, garages and other clear accessory uses shall not be considered principal buildings.

Projecting sign means a sign, normally double-faced, which is attached to a structure or building perpendicular to the wall and extending more than six (6) inches. The area of projecting signs is calculated on one (1) face only.

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 used to identify the name, address of and/or services provided by any public institutional use(s) occupying the premises.

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.

1. Athletic scoreboards, flags, holiday decorations, menu boards, streamers, pennants, 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. In addition, signs located entirely within an enclosed building and not legible from a street shall not be considered a sign.

Sign contractor means any person engaged in whole or in part in the erection or maintenance of signs, excluding the business that the sign advertises.

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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, in addition, 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 not permanently mounted.

Transition means visual effect used on an electronic message board to change from one message, symbol, figure, and/or image to another.

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 with maps or other graphics that do not contain commercial messages or commercial speech, 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.

(Ord 2-15, §1, 1-27-15; Ord 34-15, §1, 3-24-15; Ord 34-18, §1, 4-10-18)

DIVISION 3. GENERAL PROVISIONS

Sec. 23-505. Prohibited signs.

All signs not expressly permitted or exempt under this article are prohibited in any location in the City. Prohibited signs include, but are not limited to:

(a) Signs that employ intermittent or flashing illumination, animation, motion picture, laser projection, sound emission (except electronic message boards as defined in this article).

(b) Beacons.

(c) Billboards.

(d) Off-premises signs.

(e) Roof signs.

(f) A sign or advertising device attached to or painted onto a parked vehicle or trailer and being used as an on-premises or off-premises sign.

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(g) Signs marked, tacked or otherwise affixed to trees or other vegetation.

(h) Signs containing statements, words, or pictures of an obscene or pornographic nature.

(i) 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.

(j) Swinging and alternating signs.
(Ord 3-15, §1, 1-27-15; Ord 34-18, §1, 4-10-18)

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)

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. Maximum display time limit: Each banner and/or wave banner shall be allowed on a lot for no more than a total of one hundred twenty (120) consecutive days per calendar year.

(2) *Building marker sign.* Subject to the following requirement:

a. Sign area: Maximum 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 where work is under construction and shall identify persons or companies involved in the design, construction, demolition, financing or project development.
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: Construction signs for single and two-family residences shall not exceed sixteen (16) square feet.

e. Sign area: Construction signs for commercial, public institutional, industrial, multi-family, traditional or planned developments shall not exceed ninety-six (96) square feet.

(4) **Directional signs.** Subject to the following requirements:

a. Sign area: Directional signs shall not exceed six (6) square feet.

b. Sign number and placement: No more than one (1) directional sign is permitted per side of driveway.

c. Sign limitations: Directional signs shall not be composed solely of company names and/or logos. Company names and/or logos, shall not exceed two (2) square feet per sign face.

(5) **Directory signs.** Subject to the following requirements:

a. Sign area: Maximum thirty-two (32) square feet.

b. Sign height: If a ground sign, maximum eight (8) feet.

c. Sign placement: Wall or ground mounted sign. In addition, 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.

(6) **Governmental signs.** Subject to the following requirements:

a. Signs erected by, or on behalf of, a governmental unit, including legal notices, traffic signs, or other similar regulatory devices, directional signs, warnings at railroad crossings, and other instructional or regulatory signs pertaining to health hazards, parking, swimming, dumping, and such emergency or non-advertising signs as may be approved by the Traffic Engineer for safety purposes or other signs approved by the Common Council.

(7) **Historic marker signs.** Subject to the following requirements:

a. Sign placement: Signs may be a ground sign or placed flat against a building, monument stone or other permanent surface.

b. Sign size: This sign 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 less.

(8) **Home occupation signs.** Subject to the following requirements:

a. Sign number and illuminance: One (1) sign associated with a home occupation complying with the provisions of this chapter, provided such signs are non-illuminated wall signs.

b. Sign size and placement: Maximum two (2) square feet in area and mounted parallel to the wall.

(9) **Public Institutional identity signs.** Subject to the following requirements:

a. Sign number and size: One (1) sign not exceeding sixty (60) square feet.
b. Sign setback: This sign must be located a minimum of ten (10) feet from the right-of-way line.

(10) **Interior signs.** Subject to the following requirement:

a. Sign placement: Signs located inside exterior windows, walls or doors of any building, mall, court yard, stadium or enclosed lobby, when such signing is intended for interior viewing only.

(11) **Model home signs.** Subject to the following requirement:

a. Sign size: Signs not exceeding six (6) square feet identifying a non-occupied dwelling unit used as a demonstrator for selling or renting other dwelling units in the same complex.

(12) **Neighborhood and park identification signs.** Subject to the following requirements:

a. Sign location: A sign, masonry wall, landscaping or other similar material and feature may be combined to form a display for neighborhood or tract identification at all entrances.

b. Sign type and size: Neighborhood and park identification signs shall be limited to ground signs not exceeding eight (8) feet in height and forty-eight (48) square feet per sign face, and meet all other design standards in Division 4.

(13) **Political Election Campaign signs.** As provided in §12.04 of the Wisconsin Statutes, election campaign signs are permitted subject to the following requirements:

a. Sign timeframe: The sign shall not be erected prior to the first day of the "election campaign period" as defined in the Wisconsin Statutes, and shall be removed within ten (10) days following the election.

b. Sign area: Election signs shall not exceed sixteen (16) square feet in area per lot unless the sign is affixed to a permanent structure; does not extend beyond the perimeter of the structure, and does not obstruct a window, door, fire escape, ventilation shaft, or other area which is required by the City Building or Fire Code to remain unobstructed.

c. Sign location: No election campaign sign shall be placed within a public right-of-way.

d. Sign removal: The Inspections Supervisor and/or the Police Chief, or their designee, are authorized to remove any signs in violation of this subsection.

(14) **Real estate signs.** Subject to the following requirements:

a. Sign number: One (1) real estate sign per street frontage of a lot, advertising the sale or lease of that lot or premises.

b. Sign location and area: Such signs shall not be located in the public right-of-way, nor be directly illuminated, nor exceed eight (8) square feet for residential districts, thirty-two (32) square feet for public institutional and commercial districts, or sixty-four (64) square feet for industrial districts.

c. Sign removal: Real estate signs shall be removed within fifteen (15) days after the sale, rental, or lease has been accomplished.

(15) **Personal expression signs.** Subject to the following requirements:

a. Sign number and area: One (1) sign is allowed per lot and shall not exceed two (2) square feet.

(16) **Events signs.** Subject to the following requirements:

a. Sign area: Signs shall not exceed thirty-two (32) square feet.
(17) **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).

(18) **Vehicle signs used in normal course of business.** Subject to the following requirements:

a. Truck, bus, trailer, or other vehicle signs, while the vehicle is operating in the normal course of business, but is not parked in such a way that it acts as an advertising sign on a parking lot, driveway or street according to Sec. 23-505.

(Ord 34-18, §1, 4-10-18)

DIVISION 4. DESIGN STANDARDS

Sec. 23-522. Number of signs.

(a) One (1) ground sign. One (1) ground sign is permitted for each lot unless specified elsewhere in this article.

(b) Two (2) ground signs. Two (2) ground signs may be permitted if a parcel has a second street frontage subject to the following regulations:

1. For corner lots, each street frontage must be at least two hundred (200) feet before two (2) signs are allowed;

2. Double frontage lots must have at least three hundred (300) feet of lot depth.

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)

Sec. 23-523. Sign face calculation.

(a) Ground signs. The maximum area of a ground sign shall not exceed one hundred fifty (150) square feet per sign face.

(b) Multiple-faced signage. The surface area of a sign shall be calculated only on the basis of adding together the area of the sign face(s) that can be read by one (1) viewer at a time. Where two (2) identical sign faces are both faces cannot be read by any one (1) viewer simultaneously, only one (1) of the faces shall be calculated for purposes of determining sign surface area.

(c) Wall sign calculation. For purposes of maximum area for wall signs, this calculation shall include awning, marquee, canopy, permanent window and projecting signs.

1. In the P-1, 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.

(e) Sandwich board signs and similar temporary signs. Sandwich board sign standards include a maximum three and one-half (3½) foot height, two and one-half (2½) foot width, and six (6) inch high maximum leg supports.

(f) Portable signs. The maximum size is four (4) feet by eight (8) feet.

(Ord 4-15, §1, 1-27-15; Ord 34-10, §1, 4-10-18)
Sec. 23-524. Ground sign height.

(a) **Total height.** The height of a ground sign shall not exceed twenty-eight (28) feet in height.

(b) **Computation of height.** Sign height shall be computed as the distance from the base of the sign or sign structure at normal grade to the top of the highest attached component of the sign. Where the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a street or the grade of the land at the principal entrance to the principal building, whichever is lower.

Sec. 23-525. Setback and clearance.

(a) **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. Application for this permit must be obtained from the Public Works Department.

(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.** A ground sign, any part of which is closer than fifteen (15) feet to the right-of-way, shall have a minimum vertical distance of ten (10) feet between the bottom of the sign and the grade at the right-of-way line or shall not be more than three (3) feet in height above the grade at the right-of-way line.

(d) **Intersections/driveways.** Any ground or portable sign within twenty-five (25) feet of an intersection or fifteen (15) feet of a driveway shall maintain a minimum vertical distance between the bottom of the sign and the grade at the right-of-way line of ten (10) feet or shall be not more than three (3) feet in height above grade.

(e) **Projecting signs.** Projecting signs shall maintain a minimum vertical distance between the bottom of the sign and the normal grade of eight (8) feet. The maximum height between the top of the sign and the normal grade shall not exceed sixteen (16) feet.

(f) **Parking area/driveway clearance.** Any sign located over a parking area or driveway shall have a minimum vertical clearance of fourteen (14) feet.

(g) **Electrical lines.** All signs shall be so located so as to avoid any contact with above or underground electrical and communication lines.

(Ord 34-18, §1, 4-10-18)

Sec. 23-526. Portable sign display limits.

A portable sign may be displayed for a total of one hundred twenty (120) days per calendar year with a minimum of thirty (30) consecutive day blocks. The entire thirty (30) consecutive day block will count towards the one hundred twenty (120) day total even if all thirty (30) days are not used.

(Ord 34-18, §1, 4-10-18)

Sec. 23-527. Awning, canopy and marquee signs.

For this section, awning includes canopies and 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, but shall only include those areas with text or company logos. The total awning sign area shall be the sum of all sides of the awning with such text or company logos.

(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 be closer than two (2) feet from the street curb line.
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(3) Minimum clearance for an awning sign shall be seven feet six (7'6") inches from the lowest edge of the awning material to the closest point of a sidewalk.

(4) The valance shall not exceed nine (9) inches, and letters on the valance shall not exceed six (6) inches in height.

(5) Any awning sign that extends into public right-of-way (including a public sidewalk) shall be required to obtain a street occupancy permit. Application for this permit must be obtained from the Public Works Department.

(6) If illuminated, a light source shall meet all national and local electrical codes.

(Ord 34-18, §1, 4-10-18)

Sec. 23-528. Sign lighting.

Signage may be internally lighted or may have external illumination mounted on the sign, building, or ground. However, no external light source shall be positioned as to interfere or be seen by vehicular traffic or adjacent residential uses.

Sec. 23-529. Design standard and exceptions.

(a) Hospital sign exceptions. The following design standard exceptions are permitted:

(1) Ground sign number and location: 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) Directional sign number, area and location: One (1) directional sign shall be permitted 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 sign number and area: 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 illumination: All hospital related signs may be lighted for nighttime identification.

(b) Skywalks within the right-of-way. The following design standard exceptions are permitted:

(1) The maximum sign area shall be twenty percent (20%) of the wall area of the pedestrian skywalk, unless an increase in sign area is requested and approved pursuant to the street occupancy permit procedure. Applications for this permit must be obtained from the Public Works Department.

(c) 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.
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(d) 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 exceptions. The following design standard exceptions are permitted:

(1) Ground sign number and area: 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.

(e) Educational institution signs. The following design standard exceptions are permitted:

(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.

(f) Automobile, RV, truck, cycle, boat sales and dealerships. 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.

(g) Real estate marketing sign. The following design standard exceptions are permitted for the purpose of marketing a new subdivision, apartment, condominium, mixed use, business/industrial park, or planned development:

(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.

(h) 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)

Sec. 23-530. Electronic message boards.

(a) Minimum display (static) time: Eight (8) seconds.

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Transition time between messages and/or message frames: Three (3) seconds or less.

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.

(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.

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)

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.

(c) Exemptions. Murals are not subject to size limitations applicable to wall or painted wall signs and shall not count as part of the maximum permitted sign area.

(d) Compliance. Issuance of a permit does not exempt the permittee and/or property owner from complying with any other applicable requirements of the City of Appleton Municipal Code.

(e) Mural Sponsorship Sign requirements:

(1) Sign number: One (1) for each mural.

(2) Sign area: Maximum nine (9) square feet.

(3) Sign placement: Wall mounted.

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)

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)

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 his/her 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)

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 hold harmless and indemnify the City or its officers, agents, and employees from any and all claims.

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)

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 disfigurement.

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.

(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.
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(2) All discontinued or abandoned signs and sign messages shall be removed by the owner or lessee of the premises when the business they advertised is no longer conducted there or the sign message contains obsolete advertising matter, except if any period of involuntary discontinuance occurs during the temporary closing of a street for road repair. If the owner or lessee fails to remove the sign, the 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. Removal of the sign in question includes the removal of the sign structure and sign cabinet.

(Ord 34-18, §1, 4-10-18)

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.

Sec. 23-549. Penalty.

Any person who shall violate or cause to be violated any provisions of this section shall, upon conviction thereof, forfeit not less than fifty ($50) dollars nor more than five hundred ($500) dollars, together with the costs of prosecution. Each day a violation exists, or continues, shall constitute a separate offense.

DIVISION 6. SIGNS ALLOWED BY ZONING DISTRICTS

Sec. 23-560. Zoning district restrictions and exemptions.

(a) **Residential districts.** Signs not requiring a permit listed in Sec. 23-507 are signs permitted in the AG, R-1C, R-1A, R-1B, R-2, R-3 residential zoning districts. For design standard exceptions, see Sec. 23-529. For permitted and prohibited signs by type and zoning district, see Sec. 23-505 and Sec. 23-561.

(b) **Commercial and industrial districts.** Signs permitted in the C-O commercial office, C-1 neighborhood commercial, C-2 general commercial, M-1 industrial park and M-2 general industrial zoning districts are signs not requiring a permit listed in Sec. 23-507, ground, temporary, electronic message board, changeable copy, sandwich board, portable, projecting, wall, window, marquee, awning and canopy signs. For design standard exceptions, see Sec. 23-529. For permitted and prohibited signs by type and zoning district, see Sec. 23-505 and Sec. 23-561.

(c) **Central business district.** Signs permitted in the CBD central business district are the same as in paragraph (b). For design standard exceptions, see §23-529. For Permitted and Prohibited Signs by Type and Zoning District, see §23-505 and §23-561.

(d) **Planned development districts.** Signs in a PD overlay district will be based on the permitted signage within the underlying zoning district. For permitted and prohibited signs by type and zoning district, see Sec. 23-505 and Sec. 23-561.

(e) **Public Institutional district.** Signs permitted in the P-I Public Institutional district are the same as in paragraph (b). For design standard exceptions, see Sec. 23-529. For permitted and prohibited signs by type and zoning district, see Sec. 23-505 and Sec. 3-561.

(f) **Nature conservancy district.** Signs not requiring a permit listed in Sec. 23-507 are signs permitted in the NC Nature conservancy district. For design standard exceptions, see Sec. 23-529. For permitted and prohibited signs by type and zoning district, see Sec. 23-505 and Sec. 23-561.

(g) **Exemptions:**

1. The following shall be exempt from the provisions of this article:
   a. Athletic score boards.
   b. Building address numbers.
   c. Flags.
   d. Interpretative signs or wayfinding signs.
   e. Menu boards.
   f. Official legal notices.
   g. Public Art.
   h. Umbrellas with commercial or non-commercial messages or speech.

(Ord 89-06, §1, 7-11-06; Ord 34-18, §1, 4-10-18)
APPLETON CODE

Sec. 23-561. Table 3. Allowed and Prohibited Signs by Type and Zoning District.

Include, but are not limited to, the following:

<table>
<thead>
<tr>
<th>Sign Type</th>
<th>AG</th>
<th>R-1A, R-1B, R-1C &amp; R-2</th>
<th>R-3, NC</th>
<th>P-1 &amp; C-O</th>
<th>C-1 &amp; C-2</th>
<th>CBD</th>
<th>M-1</th>
<th>M-2</th>
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### ZONING

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<th>R-3, NC</th>
<th>P-1 &amp; C-O</th>
<th>C-1 &amp; C-2</th>
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</tbody>
</table>

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.

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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:

<table>
<thead>
<tr>
<th>When the gross floor area of the existing building, structure or use, except for parking lots or parking spaces is . . .</th>
<th>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 . . .</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-10,000 square feet</td>
<td>Less than 1,000 square feet</td>
</tr>
<tr>
<td>10,001-25,000 square feet</td>
<td>Less than 2,500 square feet</td>
</tr>
<tr>
<td>25,001-50,000 square feet</td>
<td>Less than 5,000 square feet</td>
</tr>
<tr>
<td>50,001 square feet and over</td>
<td>Less than 7,500 square feet</td>
</tr>
</tbody>
</table>

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.
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b. Off-street parking lot and loading area maintenance (patching). Fifteen percent (15%) or less than the total square foot area of an existing off-street parking lot and/or loading area is allowed to be patched per calendar year without submittal of a minor site plan or site plan.

c. Prior to the issuance of a permit, persons not required to submit a minor site plan or site plan for maintenance, overlay or resurfacing of an off-street parking lot and loading area pursuant to this section shall submit all proposed plans and specifications to the Inspection Division along with the completed permit application. The Inspections Division shall coordinate the review of such plans and specifications, if applicable, with other City staff. After the submittal and acceptance of a complete building permit application, and after notification to other City staff, the proposed plans and specifications shall be reviewed for compliance with all applicable provisions of this chapter and other Municipal Code provisions. Thereafter, the permit shall be approved, approved with conditions or denied with rationale within the review timeframe identified in the Building Code.

(Ord 235-11, §1, 12-27-11; Ord 131-12, §1, 12-11-12)

(c) Minor site plan review and site plan review. In order to minimize submission requirements and expedite final approval for certain projects, there shall be two (2) types of site plan review: minor and major.

Minor site plan review shall be subject to review and approval by the Community and Economic Development Director and will require only that information identified in §23-570(g), Minor site plan required information, as deemed necessary by the Community and Economic Development Director to make an informed decision.

Site plan review shall be subject to the review and approval of the Community and Economic Development Director pursuant to all submission requirements of this section.

(1) Development subject to minor site plan review.

a. The following in the AG, R-1A, R-1B, R-1C and R-2 zoning districts:

   1. Accessory buildings, uses and structures when associated with the following:

      a. Governmental facilities.

      b. Places of worship.

      c. Educational institution; elementary school, junior high school, high school.

      d. Educational institution; college or university.

      e. Educational institution; business, technical or vocational school.

      f. Earth berms over three (3) feet in height.

   b. The following in the R-3, P-I, N-C, C-O, C-1, C-2, CBD, parking, M-1 and M-2 zoning districts:

      1. Accessory uses and structures.

      2. Personal wireless facilities as identified in §23-422(b)(1)-(3).

      3. Construction, reconstruction, rehabilitation and expansion of off-street parking lots and loading areas that consist of less than twenty (20) parking spaces or loading spaces.

(Ord 236-11, §1, 12-27-11)

(2) Development subject to site plan review.

   a. The following new buildings, building additions, or structures in the AG, R-1A, R-1B, R-1C and R-2 zoning districts:

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1. Governmental facilities.

2. Places of worship.

3. Educational institution; elementary school, junior high school, high school.

4. Educational institution; college or university.

5. Educational institution; business, technical or vocational school.

6. Earth berms over three (3) feet in height.

b. The following buildings, building additions, uses and structures in the R-3, P-1, N-C, C-O, C-1, C-2, CBD, P, M-1 and M-2 zoning districts:

1. Any new buildings or structures except single- and two- (2-) family dwellings and accessory buildings, structures, or uses when associated with single- and two- (2-) family dwellings.

2. Additions to existing buildings, structures or uses except single and two (2) family dwellings and accessory buildings, structures, or uses when associated with single and two (2) family dwellings as established in the table below:

<table>
<thead>
<tr>
<th>When the gross floor area of the existing building, structure or use, except for parking lots or parking spaces is . . .</th>
<th>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 . . .</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-10,000 square feet</td>
<td>1,000 square feet or greater</td>
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<tr>
<td>10,001-25,000 square feet</td>
<td>2,500 square feet or greater</td>
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<td>25,001-50,000 square feet</td>
<td>5,000 square feet or greater</td>
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<tr>
<td>50,001 square feet and over</td>
<td>7,500 square feet or greater</td>
</tr>
</tbody>
</table>

3. Internal function of a building is changed which requires ten percent (10%) more in the number of off-street parking spaces.

4. Construction, reconstruction, rehabilitation and expansion of off-street parking lots and loading areas that consist of twenty (20) or more parking spaces or loading spaces.

5. Off-street parking lot and loading area reconstruction (patching). Reconstruction (patching) of off-street parking lots and loading areas that affects greater than fifteen percent (15%) of the total square foot area of an existing off-street parking lot and/or loading area per calendar year.

6. Storage tanks over five thousand (5,000) gallons or over twelve (12) feet high.

7. When a building or structure is destroyed by more than fifty percent (50%) of the City of Appleton's fair market value and the property owner desires to rebuild, except in the case of single- and two- (2-) family dwellings and accessory buildings, structure or uses when associated with single- and two-(2-) family dwellings.

8. Earthen berm over three (3) feet in height.

(Ord 237-11, §1, 12-27-11)

(d) Authority. The Community and Economic Development Director is hereby charged with the duty of performing site plan review and granting site plan approval for minor site plans and site plans.

(e) Procedure. Whenever any property owner or individual having a contractual interest proposes to develop/redevelop any tract or parcel of land where site plan review is required, that person shall submit to the Community and Economic Development Director a request for minor site plans or site plan approval.

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1. **Presubmittal meeting.** To ensure the correct submission of a minor site plan or site plan and to identify the requirements for a complete application, applicants shall attend a presubmittal meeting with the City Community and Economic Development staff prior to submitting an application for site plan review. The applicant will discuss with staff the submission requirements for minor site plan and site plan review. The Community and Economic Development Director shall have the authority to waive the presubmittal meeting, if necessary.

2. **Submission of application.** All required information shall be submitted to the Community and Economic Development Director for review and processing. Within fifteen (15) business days after the submittal and acceptance of a complete application, and after notification to the Alderperson of the appropriate district and in consultation with other City officials, the Community and Economic Development Director shall, in a written decision, state the findings of the Site Plan Review Committee. Upon approval, approval with modifications or conditional approval, a building permit may be issued.

3. **Request of additional information.** If in the judgment of the reviewing authority, the site plan application does not contain sufficient information to enable it to properly discharge its responsibilities, the reviewing authority may request additional information from the applicant. In that event, the fifteen (15) business day period referred to above shall be suspended pending the receipt of all information requested.

No building permit shall be issued by the City until site plan approval has been granted as provided in this section. (Ord 171-11, §1, 8-9-11)

(f) **Fees and structure.** Fees for site plan review shall be established by the City to cover the cost of this review. This fee may include passing along review costs of consultants or agencies that may be requested for review of site plans under unique circumstances such as traffic impact studies or stormwater management plans.

(g) **Minor site plan required information.** Minor Site Plans which are submitted for review shall be drawn to an appropriate scale on sheets of uniform size, recommended at 11"x17" or a previously approved site plan may be used and submitted. A total of twelve (12) complete sets shall be submitted to the Community and Economic Development Director.

All Minor Site Plans shall include as a minimum all of the following items of information. The Community and Economic Development Director may waive any of the following submission requirements as deemed unnecessary for review, at the time of the presubmittal conference.

1. Name of project, address, legal description of property, tax key number of each lot, description of proposed use and both existing and proposed zoning descriptions.

2. Name, address and phone number of the record property owner and site plan preparer (include fax number if available).

3. North arrow, date of preparation, revision dates and scale.

4. Name(s) of adjacent or surrounding streets.

5. Recorded property lines and their dimensions.

6. The total land area in the development.

7. All existing and proposed buildings and structures accessory to the principal use, including use of each structure, dimensions, identification of the class of construction (per State Building Code), and their location on the parcel.

8. Dimensions of existing and proposed yard setbacks of the buildings and structures.

9. Dimensions of existing and proposed parking, loading and unloading areas, and sidewalks. Identify proposed and existing surface materials.
(10) Show existing and proposed landscaping. Identify size and variety of existing and proposed landscaping including the preservation of existing trees on site.

(11) Identify by list the type of roof, wall and all trim materials, colors and textures and submit color samples and building material samples.

(12) If buildings are to be removed, the site plan shall so indicate.

(13) A note shall appear on the minor site plan that indicates the calculations for parking and loading requirements per §23-172(m), Required spaces for specific uses.

(14) Existing and proposed driveways and parking lots including: pavement markings to show traffic flow; parking stall sizes and layout; handicap stalls and ramps; loading zones, driveways widths and radii or flares on driveway aprons to public streets.

(15) If existing curb cuts are to be abandoned, the statement "curb cut will be closed per City of Appleton standards" shall be clearly noted on the site plan.

(16) Identify all proposed sidewalks with grade elevations and handicap access at driveways.

(17) Identify snow storage areas located outside of setbacks, in required parking areas, landscaped areas and vision clearance triangles.

(18) The location and extent of all existing and proposed outdoor storage and outdoor display.

(19) The location and detail of refuse containers and their enclosures.

(20) The location of all mechanical equipment and the type of screening provided.

(21) Location, heights, elevations and materials of all fences or retaining walls.

(22) Show on-site fire hydrants.

(23) Identify as needed, any public right-of-way with accurate locations for existing and proposed facilities such as streets, curbs, sidewalks, sidewalk planters, street trees, utility poles, traffic signs and signals, median islands, project driveways, driveways on opposite street frontages, bus stops and other improvements. Elevations of sidewalks at property lines and elevations to indicate handicap accessibility shall be identified. A statement that "Any existing sidewalk damaged during construction will be replaced as a part of this project" shall be clearly noted on the site plan.

(24) Calculate drainage area for each catch basin. Indicate the size and slope of utility lines that will be tapped into in the adjacent streets.

(25) Identify as needed, all existing and proposed public and private easements for utility, drainage, sewer, parking and other purposes, and all easements on surrounding properties benefiting the subject property. If existing utilities are to be abandoned, clearly state the method of abandonment.

(26) Identify, as needed, all existing and proposed sanitary sewer mains and laterals including method of connection to public main, easements, size, materials, slope, manholes, rim elevation, invert elevations, clean outs, plumbing code calculations, how many drainage fixture units and public mains for connection.

(27) Identify, as needed, all existing and proposed water mains and laterals, including easements, size, depth, materials, tracing wires, hydrants, method of connection valves, meters, plumbing code calculations, how many water supply fixture units and public mains for connection.

(28) Identify, as needed, all existing and proposed storm sewer mains and laterals, including method of connection to public main, easements, size, materials, slope, manholes, inlets, catch basins, yard drains, rim elevations,
invert elevations, area map for drainage to each catch basin, square feet draining to each catch basin, plumbing code calculations, roof drain discharges and/or connections, square foot of roof area and public systems for connection.

(29) Identify, as needed, all existing and proposed surface run-off features, including easements, swales, open channels, type of surface, rip rap, flow path of runoff from upstream areas and flow path for runoff leaving the site including the public system adjacent to or for connection.

(30) Identify, as needed, existing topography (by dashed lines) at one (1) foot intervals and proposed grade elevations per City elevations (City datum) for the building, parking lot, catch basin inlet, rim and invert elevations, drives, surrounding open areas and including all property within fifty (50) feet using contour lines and spot elevations and drainage flow areas as needed to define drainage patterns.

(31) List all existing and proposed grades for first floor elevations.

(32) Provide all erosion control information as required in Chapter 24 of the Appleton Municipal Code.

(33) Identify all exterior lighting fixtures, either mounted on the building or freestanding light along with dispersion pattern, intensity of light and cut-off shielding that reflects light downward and in which the light source is not visible from adjacent properties.

(34) Identify type of all surfaces, including seeded grass, sod, type of mulch in planting beds, pavers, concrete and asphalt, including pavement thickness.

(35) Identify streams, wetlands, channels, ditches and other watercourses on the site and on adjacent properties.

(36) Identify the 100-year flood plain, including flood fringe, floodway and flood storage areas.

(37) Identify the size of basement/below grade space or clearly mark “no below grade space” on the site plan.

(38) Calculate lot coverage percentage of impervious surface areas.

The Community and Economic Development Director may require additional information or may waive submission requirements as deemed necessary at the presubmittal conference for thorough and efficient review.

(h) Site plan required information. Plans which are submitted for review shall be drawn to an appropriate scale on sheets of uniform size, recommended at 24" x 36". A total of twelve (12) complete folded sets shall be submitted to the Community and Economic Development Director.

All site plans shall include as a minimum all of the following items of information:

(1) Name of project, address, legal description of property, tax key number of each lot, description of proposed use and both existing and proposed zoning descriptions.

(2) Location map.

(3) Name, address and phone number of the record property owner and site plan preparer (include fax number if available).

(4) The signature of the surveyor, engineer or architect who is responsible for site plan preparation along with the revision date(s) clearly marked on the plan.

(5) North arrow, date of preparation and revision.

(6) Dates and scale.

(7) Name(s) of adjacent or surrounding streets.

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(8) Recorded property lines and their dimensions.

(9) The total land area in the development including the percentage of lot coverage for all impervious surface areas.

(10) The schedule of phasing for this project if to be completed in phases.

(11) The location and architectural features of all existing and proposed structures, including occupancy classification of each structure as identified in the State Building Code, dimensions, number of stories and their locations on the parcel.

(12) Identify what types of products will be manufactured, sold and/or stored on site.

(13) Identify all types of hazardous materials to be stored on site. If none, state “No hazardous materials will be stored on site”.

(14) Identify if there will be food and/or beverage sales, a public swimming pool or whirlpool, or overnight lodging at this location.

(15) If buildings are to be removed, the site plan shall so indicate.

(16) A note shall appear on the of the site plan that indicates the calculations for parking and loading requirements which must identify: All existing uses on the property, the number of existing, proposed and future employees based on a five (5) year projection, the gross floor area and useable floor area for existing buildings, expanded buildings and proposed buildings and a calculation of required handicapped accessible parking spaces. Any joint use of parking must be in writing, approved by the Community and Economic Development Director, signed by both parties involved and attached and recorded in the Registrar of Deeds Office.

(17) Show barriers, curbing or wheel stops.

(18) Existing and proposed driveways and parking lots including: pavement markings to show traffic flow; parking stall sizes and layout; handicapped stalls and ramps; loading zones; driveway widths and radii or flares on driveway aprons to public streets. For parking areas, identify all proposed and existing stop signs at all private driveway exits onto public roadways. If stop signs are required, add a note on the site plan identifying: “Stop signs shall be installed and maintained in accordance with the Federal Highway Administration Manual of Uniform Traffic Control Devices, latest version.”

(19) If existing curb cuts are to be abandoned, the statement “Curb cut will be closed per City of Appleton standards” shall be clearly noted on the site plan.

(20) For drive-through uses, show vehicle stacking spaces and pedestrian access to entry doors that do not cross drive-through lanes.

(21) Provide recycling calculations and locations according to the State Building Code.

(22) Identify all existing and proposed sidewalks with grade elevations and handicap access at driveways.

(23) Identify snow storage areas located outside of setbacks, in required parking areas and vision clearance triangles.

(24) Dimensions of all required yard setbacks for buildings and off-street parking (any variances approved by the Board of Appeals attached).

(25) The location and extent of all existing and proposed outdoor storage and outdoor display.

(26) The location and detail of refuse containers and their enclosures, sidewalks, other pedestrian-type walkways, bicycle storage racks, traffic control dividers, tree islands and other similar improvements.
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(27) The location of all mechanical equipment and the type of screening provided.

(28) Location of existing and proposed signage, sign elevation showing the height of sign to grade, height and face dimensions, colors, typeset, materials, lighting and orientation of signage.

(29) Location, height, elevations and materials of all fences or retaining walls.

(30) Location, size and use of any buildings, driveways and public rights-of-ways within fifty (50) feet of property lines and driveways, including those located across the street.

(31) Identify the types of fire protection/detection systems will be used.

(32) Show on-site fire hydrants, Fire Department hose connections, and the respective flow calculations to meet the International Fire Code for installed fire protection systems.

(33) The statement “A Knox Box will be provided at the front entrance” shall be included on the site plan.

(34) Identify the location and presence of all fire related wall assemblies.

(35) Identification of the class of construction in accordance with State Building Code.

(36) When abutting a site plan project, any public right-of-way shall be identified with accurate locations for existing and proposed facilities such as streets, curbs, sidewalks, sidewalk planters, street trees, utility poles, traffic signs and signals, median islands, project driveways, driveways on opposite street frontages, bus stops and other improvements. Elevations of sidewalks at property lines and elevations to indicate handicap accessibility shall be identified. A statement that “Any existing sidewalk damaged during construction will be replaced as a part of this project” shall be clearly noted on the site plan.

(37) Locate and label, whether underground or overhead, all existing and proposed utility lines and easements with sizes and material designations, and slopes (as needed), including sanitary sewer (manholes, laterals and clean outs), storm sewer (manholes, laterals and catch basins), water (laterals, fire lines, valves and meters), fire hydrants, gas, telephone, cable and electric lines.

(38) Calculate drainage area for each catch basin. Indicate the size and slope of utility lines that will be tapped into in the adjacent street.

(39) Show all existing and proposed public and private easements for utility, drainage, sewer, parking, access and other purposes, and all easements on surrounding properties benefiting the subject property. If existing utilities are to be abandoned, clearly state the method of abandonment.

(40) State the provider of sanitary and water if not provided by the City of Appleton and provide written documentation of approval from said provider.

(41) Identify all existing and proposed sanitary sewer mains and laterals, including: methods of connection to public mains, easements, size, materials, slope, manholes, rim elevation, invert elevations, clean outs, plumbing code calculations, how many drainage fixture units and public mains for connection.

(42) Identify all existing and proposed water mains and laterals, including easements, size, depth, materials, tracing wires, hydrants, method of connection valves, meters, plumbing code calculations, how many water supply fixture units and public mains for connection.

(43) Identify all existing and proposed storm sewer mains and laterals, including the method of connection to the public main, easements, size, materials, slope, manholes, inlets, catch basins, yard drains, rim elevations, invert elevations, area map for drainage to each catch basin, square feet draining to each catch basin, plumbing code calculations, roof drain discharges and/or connections, square foot of roof area and public systems for connection.
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(44) Identify all existing and proposed surface run-off features, including easements, swales, open channels, type of surface, rip rap, flowpath of runoff from upstream areas, and flowpath for run-off leaving the site including the public system adjacent to or for connection.

(45) Identify existing topography (by dashed lines) at one (1) foot intervals and proposed grade elevations per City elevations (City datum) for the building, parking lot, catch basin inlet, rim and invert elevations, drives, surrounding open areas and including all property within fifty (50) feet using contour lines and spot elevations and drainage flow arrows as needed to define drainage patterns.

(46) List all existing and proposed grades for first floor elevations and catch basin inlet rim and invert elevations.

(47) Show details of all existing and proposed retaining walls, swales and inlets.

(48) Provide all erosion control information as required in Chapter 24 of the Appleton Municipal Code.

(49) Identify all exterior lighting fixtures, either mounted on the building or freestanding light along with dispersion pattern, intensity of light and cut-off shielding that reflects light downward and in which the light source is not visible from adjacent properties.

(50) Provide cross-sections for all pavement and identify depth of base gravel base and thickness of hard-surfaced pavement (concrete or asphalt compacted).

(51) Locate all trees over six (6) inches in diameter and indicate whether they will remain, be relocated or be removed. Identify any other significant vegetation that is to remain and the means of protection during construction.

(52) Identify the location, size, species and variety of proposed trees, shrubs, ground cover and other landscape features that will be used to control erosion, or screen parking, truck loading, refuse disposal, and outdoor storage from adjacent residential districts and the public right-of-way.

(53) Identify the finished height and width of landscape elements.

(54) Provide a planting schedule that includes a key abbreviation, graphic symbol of vegetation, botanical name of plants, common name of plants, quantity of plants, size of plant at planting and size of plant at maturity.

(55) Identify type of temporary and finishing materials, including seeded grass, sod, type of mulch in planting beds, pavers, concrete and asphalt.

(56) Identify streams, wetlands, channels, ditches and other watercourses on the site and on adjacent properties.

(57) Identify the 100-year floodplain, including flood fringe, floodway and flood storage areas.

(58) Identify the predominate soil types.

(59) Identify all open space that will remain undisturbed and undeveloped.

(60) Provide dimensioned elevations of all exterior walls (photographs may be substituted for existing elevations to remain unchanged).

(61) Identify the size of basement/below grade space or clearly mark “not below grade space” on the site plan.

(62) Identify by list the type of roof, wall and all trim materials, colors and textures and submit color samples and building material samples.

(63) Changes or additions to existing buildings or materials clearly identified.

(64) Identify the location(s) of outdoor display areas and/or outdoor storage areas.
(65) Multifamily residential projects shall include additional information that identifies the total acres of subject property, the total number of dwelling units and density per acre and the percentage of proposed site coverage for buildings and hard-surfaced areas as opposed to green space and landscaping.

(66) The Community and Economic Development Director may require additional information or may waive submission requirements as deemed necessary for thorough and efficient review.

(i) **Scope of review.** The Community and Economic Development Director, when evaluating minor site plans or site plans, will review:

1. The relationship of the site plan to adopted land use plans and policies.

2. Parking layout so as to:
   
   a. Minimize dangerous traffic movements.
   
   
   c. Provide for the optimum number of parking spaces, while maintaining City design standards.
   
   d. Provide for pedestrian safety.

3. Provisions for surface and subsurface drainage and for connections to water and sewer lines, so not to overload existing public utility lines nor increase the danger of erosion, flooding, landslide or other endangerment of adjacent or surrounding properties.

4. Landscaping, so as to:

   a. Maintain existing mature trees and shrubs to the maximum extent practicable. Where practical, the property owner shall make every effort to preserve and retain existing trees and vegetation on the site when designing for the development or redevelopment of the site during design, construction and after construction.

   b. Buffer adjacent incompatible uses.

   c. Screen unsightly activities from public view.

   d. Break up large expanses of asphalt and buildings with plant material.

   e. Provide an aesthetically pleasing landscaping design.

   f. Provide plant materials and landscaping designs that can withstand the City’s climate and the microclimate on the property.

5. Location of principal structures, accessory structures, lighting, freestanding signs, refuse containers, mechanical equipment, etc. so that their location and proportion does not impede safe and efficient traffic flow or adversely impact the development of adjacent property or the character of the surrounding neighborhood.

6. All electrical, telephone and cable lines shall be placed underground whenever practical.

7. Compliance with this chapter, the subdivision regulations and the stormwater ordinance of the City of Appleton.

(j) **Validity of approval, expiration and revisions to site plan.** A site plan shall become effective upon obtaining certification of approval by the Community and Economic Development Director on the minor site plan or site plan application and the signature of the Director on the approved plans (revised if necessary).
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The approval of any site plan required by this section shall remain valid for one (1) year after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this article, "actual construction" shall mean that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property or stockpiling of materials on the site shall not constitute actual construction.

An approved site plan shall remain in effect until it is supplanted by a new site plan or is deemed null and void as identified above. A revision to a site plan may be requested by submitting the changes in writing or on a copy of the approved site plan to the Community and Economic Development Director. The Community and Economic Development Director may approve, approve with conditions, deny the requested revision(s) or determine that a new site plan is needed.

Cases that require an extension of time by the applicant can be submitted to the Community and Economic Development Director, in writing, for consideration. In no case, however, shall an extension of time exceed one (1) year.

(k) Appeal. If the Community and Economic Development Director denies the application for a site plan or approves the site plan with conditions, the applicant may appeal the decision to the Plan Commission. A notice of appeal must be filed with the Community and Economic Development Director no later than fifteen (15) days after receipt by the applicant of the decision of the Community and Economic Development Director. Failure by an applicant to file an appeal in accordance with the foregoing provisions shall be deemed to constitute a withdrawal of the application for a site plan.

The Plan Commission shall act as promptly as practical on any appeal taken in connection with the proposed site plan. The Plan Commission shall approve, approve with conditions or disapprove the site plan by action taken by a majority of the Plan Commission present at any meeting at which a quorum is present. If the Plan Commission approves the site plan, a building permit may then be issued, provided that all other requirements of all other applicable City codes and ordinances are satisfied.

(l) Violation. Construction or other activities contrary to the approved site plan, or in the absence of an approved plan, shall be a violation of this section.
(Ord 61-94, §5, 5-18-94; Ord 52-95, §1, 4-19-95; Ord 69-96, §1, 8-7-96; Ord 106-96, §1a, 11-6-96, Ord 121-05, §1, 10-25-05; Ord 167-07, §1, 12-25-07; Ord 235-11, §1, 12-27-11; Ord 237-11, §1, 12-27-11)

Sees. 23-571 – 23-600. Reserved.
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ARTICLE XVI. LANDSCAPING AND SCREENING

Sec. 23-601. Landscaping and screening standards.

(a) Purpose. The landscaping and screening requirements specified in this section are intended to:

(1) Foster aesthetically pleasing development which will protect and enhance the appearance, character, health, safety and welfare of the community; and

(2) To increase the compatibility of adjacent uses, by minimizing adverse impacts of noise, dust and other debris, motor vehicle headlight glare or other artificial light intrusions and other objectionable views, activities or impacts to adjacent or surrounding uses.

(b) Applicability. A landscape plan shall be required for all exterior construction and development activity, including the expansion of existing buildings, structures and parking lots, except construction of detached single-family and two-family dwellings and their accessory structures. The landscape plan shall be drawn in conformance with the requirements specified in this section.

(c) Authority. The Community and Economic Development Director is hereby charged with the duty of performing landscape plan review and granting landscape plan approval prior to issuance of a building permit.

Landscape plans for special use permits and planned developments shall also be reviewed and approved by the Plan Commission and Common Council.

(d) Approval procedure. Whenever any property owner or individual having a contractual interest proposes to develop, redevelop or expand a building, structure, or off-street parking lot on any tract or parcel of land where landscape plan review is required, that person shall submit to the Community and Economic Development Director a request for landscape plan approval.

All required information shall be submitted to the Community and Economic Development Director for review and processing. Within thirty (30) days after submittal, the Community and Economic Development Director, after notification to the alderperson of the appropriate district and in consultation with other City officials, shall approve, approve with modifications, conditionally approve or deny the request. If, in the judgment of the reviewing authority, the landscape plan does not contain sufficient information to enable it to properly discharge its responsibilities, the reviewing authority may request additional information from the applicant. In that event, the thirty (30) day period referred to above shall be suspended pending the receipt of all information requested.

The Community and Economic Development Director may seek professional advice from a registered landscape architect or licensed nurseryman in the review of any submitted landscape or screening plan. The cost of such consultation shall be passed on to the applicant.

Any applicant aggrieved by a decision to deny a permit may appeal as set out in §23-68, Administrative appeals.

No building permit shall be issued by the City until landscape plan approval has been granted as provided in this chapter.

(e) Required information. All landscape plans submitted for approval shall contain or have attached the following information:

(1) The location and dimensions of all existing and proposed structures, building entrances, parking lots and drives, rights-of-way, sidewalks, bicycle paths, ground mounted signs, refuse disposal areas, bicycle parking areas, fences, freestanding electrical equipment, recreational facilities and other freestanding structural features.

(2) In the required landscape plan, state, at planting and at maturity, the location, quantity, size and name (including common and botanical names) of all proposed plant materials and any other information to fully describe the plant material. The location, size and type of existing plant material shall simply be identified.
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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 bermsing (indicating contours at one (1) foot intervals), spot elevations for high and low points, the flow line of drainage swales and grading features such as retaining walls, etc.

(6) Specification of the type and boundaries of all proposed ground cover.

(7) Elevations, including dimensions and materials, of all fences proposed for construction on the site.

(f) *Design criteria.* Landscape plans shall be prepared, evaluated and approved based on design criteria as identified below:

(1) Landscaping, at a minimum, shall reflect the character of the property and of adjacent properties.

(2) Any landscaping located within the front setback, in a required vision corner or within fifteen (15) feet of a private driveway (§23-50(f), Vision corner), shall have the following restrictions:

   a. Shrubs shall be maintained at a height of no greater than three (3) feet.

   b. Trees must have a clearance from the ground to the bottom of the first branch of a minimum of six (6) feet.

(3) Side yard screening located within fifteen (15) feet of the street right-of-way or private driveway must not exceed three (3) feet in height. For other side and rear yard screening requirements, see §23-50(f), Vision corner.

(4) The mature spread and overhang of plantings shall not obstruct pedestrian use of walkways or vehicular use of drives or off-street parking spaces.

(5) All shade trees shall have a minimum trunk size of two and one-half (2½) inches in diameter upon installation as measured at six (6) inches above the established ground level. Shade trees shall be specimen grade with a single central leader.

   ![Single Central Leader](image)

(6) Trees and plant materials used in landscaping and screening shall conform to the standards of the American Association of Nurseyermen and shall have passed any inspection required under state regulations.

(7) Detention/retention basins and ponds shall be landscaped. Such landscaping may include shade and ornamental trees, grasses, evergreens, shrubbery, hedges or other suitable planting materials and used in a manner that controls siltation and erosion.

(8) Trees to be maintained on and adjacent to the property shall be protected during construction by placing a barrier beyond the dripline of the tree canopy.

(9) New plantings shall not be allowed to shade an existing solar panel receptor on an adjacent property.

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(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.

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(13) At maturity, trees shall be maintained so there is a seven (7) foot underclearance when over off-street parking spaces, off-street loading spaces and drive aisles, and a ten (10) foot underclearance when over a public right-of-way to meet Crime Prevention Through Environmental Design (CPTED) standards. Trees shall be planted as far from the public sidewalk as possible.

(14) Plant material shall be placed intermittently against long expanses of building walls, fences and other barriers to achieve a softening effect of hard building lines.

(15) Earthen berms and existing topography shall be incorporated into the landscape treatment of a site. Berms shall conform to the following standards:

  a. The maximum side slope of any berm shall be three horizontal to one vertical (3:1) and the design shall be reviewed by the Community and Economic Development Director to ensure that proper drainage, erosion prevention and control practices have been utilized.

  b. Berms and earth mounds shall be designed with physical variations in height and alignment throughout their length.

  c. Adequate ground cover shall be used and maintained to prevent erosion of the earth mound.

(16) Plantings or an enclosure shall screen service structures such as mechanical equipment, utility box pads and pedestals, trash containers and other enclosures.

(17) Plantings around the base of ground signs is required. A minimum area of total sign face area of one (1) side of a sign shall be landscaped at the base of the sign.

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(18) Existing plant material shall, wherever practical, be incorporated into the landscape treatment of a site.

(19) Where utilities are to be installed within an existing root zone area, augering under the roots rather than trenching shall be used. Augering at a depth of four (4) feet is recommended.

(20) Planting beds shall be mulched with bark chips, or other similar natural quality landscaping materials. Decorative stone may be use in conjunction with natural mulch upon approval by the Community and Economic Development Director.

(21) When walls or fences are used to fulfill screening requirements, they shall be detailed on the required plan. They are to be constructed of weatherproof materials. This includes pressure treating or painting of lumber if it is not redwood or cedar and using aluminum or galvanized hardware. Chain link fences with tubular privacy slats may be permitted to satisfy screening requirements if approved by the Community and Economic Development Director.

Any wall or fence used for screening shall be constructed so that the finished, or most visually appealing side of the wall or fence, is facing the adjacent property. Any wall or fence not used for screening purposes shall be regulated in §23-44, Fences and walls, of this zoning ordinance.

(22) When screening service structures, the following regulations shall be observed:

a. Service structures shall include, but not be limited to: propane tanks, trash containers, electrical transformers, utility vaults which extend above the ground; ground mounted utility equipment, transformer boxes and other equipment or elements providing service to a building or a site. The screening height shall be based upon the tallest point of the structure(s) being buffered.

b. A continuous staggered planting of evergreens, an alternating board on board fence or a chain link fence with tubular privacy slats, shall enclose any service structure on all sides, unless such structure must be frequently moved or accessed, in which case screening material shall be established to allow access to the structure.

c. Whenever screening material is placed around any trash containers or waste collection unit that is emptied or removed mechanically on a regular basis. The plant material shall be at a sufficient distance from the enclosure to prevent possible damage to the screening when the container is moved or emptied.

(23) As landscaping is a site-specific design element, a waiver may be requested from the Community and Economic Development Director.

(g) Parking lot landscaping. All parking lots shall be landscaped and screened in accordance with the provisions in §23-172, Off-street parking and loading standards.

(h) Maintenance.

(1) Responsibility. The owner of the premises shall be responsible for the maintenance, repair and replacement of all landscaping materials and barriers, including refuse disposal areas, as may be required by the provisions of this chapter. The owner or developer must provide a maintenance plan which indicates how the established buffer and landscaped areas will be maintained.

(2) Landscaping materials. All landscaping materials shall be installed and maintained to accepted nursery practices. All plant material shall be maintained in good condition and shall be kept free of refuse and debris so as to present a healthy, neat and orderly appearance. All unhealthy or dead plant material shall be replaced at the next planting period.

(3) Fences and walls. Fences, privacy slats, walls and other barriers shall be maintained in good repair.

(4) No disturbance. Once a buffer has been approved by the Community and Economic Development Director and established by the owner, it may not be used, disturbed or altered for any purpose without review and approval of a new landscape plan submitted by the applicant.

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(j) **Alternative compliance landscape plan.** An alternative compliance landscape plan may be approved by the Community and Economic Development Director, upon request, if an applicant demonstrates that the intent of this section can be more effectively met, in whole or in part, through alternative means. If approved, an alternative compliance landscape plan shall be substituted, in whole or in part, for a landscape plan meeting the express terms of this section. Alternative compliance is not a departure, variance or a waiver. The proposed solution must meet or exceed otherwise applicable landscaping and screening requirements as established in this section.

(1) **Procedure.** Alternative compliance landscape plans shall be prepared and submitted in accordance with the landscape plan procedures as identified in this section. The plan shall be clearly labeled as an "Alternative Compliance Landscape Plan," and it shall clearly identify the modifications and alternatives proposed.

(2) **Review criteria.** In reviewing proposed alternative compliance landscape plans, favorable consideration shall be given to exceptional landscape designs that attempt to preserve and incorporate existing vegetation in excess of minimum standards and plans that demonstrate innovative design and use of plant materials. Alternative compliance landscape plans may be approved upon a finding that any of the following circumstances exist on the proposed building site or surrounding properties:

   a. Natural land characteristics or existing vegetation on the proposed development site would achieve the intent of this article;

   b. Innovative landscaping or architectural design is employed on the proposed development site to achieve a screening effect that is equivalent to the screening standards of this section;

   c. The required landscaping or buffering would be ineffective at maturity due to topography or the location of improvements on the site; or

   d. The proposed alternative represents a plan that is as good or better than a plan prepared in strict compliance with the other standards of this section.

   e. The alternative landscaping plan would achieve a better way to help achieve the containment of stormwater or enhance the overall quality of stormwater.

(j) **Modifications of standards.** The Community and Economic Development Director shall have the authority to waive or modify the requirements and standards of this section for good cause shown by the applicant.

(Ord 238-11, §1, 12-27-11; Ord 239-11, §1, 12-27-11; Ord 240-11, §1, 12-27-11; Ord 241-11, §1, 12-27-11; Ord 243-11, §1, 12-27-11)

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 craftspserson, or architectural history credentials or expertise, or other historic preservation related disciplines such as urban planning, American Studies, American Civilization, cultural geography or cultural anthropology; one (1) regular member shall be a licensed real estate broker with two (2) alternates appointed from any of the above qualifications. All members shall be selected for their knowledge of and interest in matters pertaining to this section. Alternate members shall have full voting power in the event one (1) or more regular members have declared a conflict of interest or in the event one (1) or more regular members are absent.

(f) Terms. The term for each member shall be three (3) years on staggered terms except, the alderperson will be appointed annually at the Common Council annual reorganizational meeting. The term for each member shall expire May 1 of each year.

(g) Reorganizational meeting. The Historic Preservation Commission shall reorganize in May of each year by electing a chair, vice-chair, contact person and secretary. All meetings of the Commission shall be held at the call of the chairman or at such times as the Commission determines.

(h) Designation of local historic structures, local historic sites and local historic districts. The Historic Preservation Commission shall have the power to recommend local designation of historic structures, historic sites and historic districts within the City of Appleton limits. Such designation shall be made based on the review of the local historic structure, local historic site and local historic district designation criteria identified in subsection (i) of this section. Local designation of historic sites, historic structures and historic districts shall be recommended to the Community and Economic Development Committee who will review and recommend to the Common Council for a final approval. Once designated, such local historic structures, local historic site and local historic district shall be subject to all the provisions of this chapter.

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(i) **Local historic structure, local historic site and local historic district designation criteria.** For purposes of this chapter, a local historic structure, local historic site or local historic district designation may be placed on any improvement parcel, natural area, improvement, or any area of particular historic, architectural, archeological or cultural significance to the City of Appleton, the state or the nation, which is determined to have historical significance by meeting at least one (1) of the following criteria:

a. Criterion 1: Are identified with important events that exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community; or

b. Criterion 2: Are identified with an important person or persons that have made specific contributions to national, state or local history; or

c. Criterion 3: Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship, or that represents a significant and distinguishable entity whose components lack individual distinction; or

d. Criterion 4: Are representative of the notable work of a master builder, designer or architect who influenced his age; or

e. Criterion 5: Have yielded, or may be likely to yield, information important to prehistory or history.

(j) **Operating guidelines.** The Historic Preservation Commission may adopt specific operating guidelines subject to Common Council approval for local historic structure, local historic site and local historic district designation, providing such operating guidelines are in conformance with the provisions of this chapter. It is important to ensure that these operating guidelines are reviewed on a regular basis to ensure they are appropriate to the architectural and site characteristics of the full range of the City of Appleton's designated local historic structures, local historic sites and local historic districts and that they adequately reflect current understandings of appropriate restoration and rehabilitation techniques.

(k) **Procedure for designation of local historic structures and sites.**

(1) **Application process.** Application forms for designation of local historic structures and local historic sites shall be submitted to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then filed with the City Clerk.

(2) **Public hearing at Historic Preservation Commission.**

a. Notice of public hearing for designation of local historic structures and local historic sites shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.

b. At least ten (10) days prior to such hearing, the Community and Economic Development Department shall notify the alderperson of the aldermanic district and property owners of record and owners of property in whole or in part situated within a one hundred (100) foot radius of the nominated structure or site, as listed in the Office of the City Assessor.

c. The Historic Preservation Commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and review records as it deems necessary.

(3) **Action by the Historic Preservation Commission.** After the close of the public hearing, the Historic Preservation Commission shall review the criteria in subsection (i) a., b., c., d. and e. of this section and either recommend approval or denial of the proposed local historic structure designation or local historic site designation to the Community and Economic Development Committee, unless time is extended by agreement between the Historic Preservation Commission and the owner or owner's agent in charge of the property.

(4) **Action by the Community and Economic Development Committee.** After receiving and reviewing the report and recommendation of the Historic Preservation Commission, the Community and Economic Development
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Committee may either approve or deny the proposed local historic structure designation or local historic site designation, or refer the matter back to the Historic Preservation Commission. The Community and Economic Development Committee’s recommendation and report to approve or deny such designation shall be forwarded to the Common Council who will make the final decision.

(5) Action by the Common Council.

a. After receiving and reviewing the report and recommendation of the Community and Economic Development Committee, the Common Council shall either approve or deny the proposed local historic structure designation or local historic site designation, or refer the matter back to the Historic Preservation Commission.

b. The City Clerk shall send written notice of the action taken by the Common Council to the property owner(s) or owner’s agent, Community and Economic Development Department, Inspections Supervisor and the City Assessor.

(1) Procedure for designation of local historic districts.

(1) Historic district designation criteria. For preservation purposes, the Historic Preservation Commission shall select geographically defined areas within the city of Appleton to be designated as a local historic district and shall, in cooperation with the property owner(s) or owner’s agent prepare a Historic Preservation Plan for each area. A local historic district may be designated for any geographic area of particular historic, architectural or cultural significance to the city of Appleton, after review of the criteria in subsection (i) a., b., c., d. and e. of this section.

a. Local Historic Preservation Plan. Each local historic preservation plan shall include the following:

1. a brief description of the district,

2. identification of the current property owners of record, of the contributing structures,

3. identification of the uses/functions of each property in the district,

4. a legal description of the district boundaries,

5. a map showing the legal boundaries of the district,

6. current photographs of the contributing structures,

7. a historical/cultural and architectural analysis supporting the historic/cultural significance of the district, and

8. a statement of preservation objectives and specific guidelines for future historic preservation alterations, historic preservation repairs or demolition activities within the district.

(2) Application process. Application forms for local historic district designations shall be submitted to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application, the Local Historic Preservation Plan and supporting materials are then filed with the City Clerk.

(3) Informal public hearing at Historic Preservation Commission. At least ten (10) days prior to such hearing, the Community and Economic Development Department shall notify the alderperson of the aldermanic district or districts, owners of record within the proposed local historic district and owners of property in whole or in part situated within a one hundred (100) foot radius of the nominated local historic district, as listed in the Office of the City Assessor. The notice of informal public hearing shall identify the purpose, date, time and place of the informal public hearing.
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(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), (ii), (iii), (iv) and (v) of this section and either recommend approval or denial of the proposed local historic district designation and adoption of the proposed Local Historic Preservation Plan to the Community and Economic Development Committee, unless time is extended by agreement between the Historic Preservation Commission and the owner(s) or owner's agent in charge of the property.

(5) **Action by the Community and Economic Development Committee.** After receiving and reviewing the report and recommendation of the Historic Preservation Commission, the Community and Economic Development Committee may either approve or deny the proposed local historic district designation and adopt the proposed Local Historic Preservation Plan, or refer the matter back to the Historic Preservation Commission. The Community and Economic Development Committee's recommendation and report to approve or deny such designation and adoption of the Local Historic Preservation Plan shall be forwarded to the Common Council who will make the final decision.

(6) **Action by the Common Council.**

   a. Notice of public hearing for designation of local historic districts and adoption of the Local Historic Preservation Plan shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.

   b. At least ten (10) days prior to such hearing, the City Clerk shall notify the alderperson of the aldermanic district or districts, owners of record within the proposed local historic district, and owners of property in whole or in part situated within a one hundred (100) foot radius of the nominated local historic district, as listed in the Office of the City Assessor.

   c. After receiving and reviewing the report and recommendation of the Community and Economic Development Committee, the Common Council shall either approve or deny the proposed local historic district designation and the proposed Local Historic Preservation Plan, or refer the matter back to the Historic Preservation Commission. Designation of the local historic district shall constitute adoption of the proposed Local Historic Preservation Plan prepared for that local historic district and denotes the implementation of said plan.

   d. The City Clerk shall send written notice of the action taken by the Common Council to the property owners or owner's agent, Community and Economic Development Department, Inspections Supervisor and the City Assessor.

   (m) **Recognition of locally designated historic structures, historic sites and historic districts.** At such time as a locally designated historic structure, historic site or historic district has been properly designated, the Historic Preservation Commission, in cooperation with the property owner(s) or owner's agent, may allow a suitable plaque, marker or other appropriate identifier declaring that such property is a local historic structure, local historic site, local historic district, or a contributing structure.

   (n) **Certificate of Appropriateness provision: Regulation for exterior construction, reconstruction, historic preservation alteration and demolition.**

   (1) No owner or owner's agent in charge of a local historic structure, local historic site or contributing structure shall be issued a permit by the Division of Inspections for any work identified in subsection (n)(2) a. and b. of this section, unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission.

   (2) An owner or owner's agent in charge of a local historic structure, local historic site or contributing structure shall apply for and receive approval of a Certificate of Appropriateness from the Historic Preservation Commission prior to performing any of the following work:

   a. Historic preservation alterations or demolition of all or any part of a local historic structure, local historic site or contributing structure;
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b. Historic preservation alterations or demolition of any improvement upon a local historic structure, local historic site or contributing structure.

(3) Application process. Application forms for a Certificate of Appropriateness shall be submitted to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then forwarded to the Historic Preservation Commission.

a. Standards for granting Certificate of Appropriateness for exterior construction, reconstruction and historic preservation alterations. In determining whether to approve or deny a Certificate of Appropriateness for a historic preservation alteration, the Historic Preservation Commission shall approve the application if one (1) or more of the following can be demonstrated:

1. In the case of a local historic structure, local historic site or a contributing structure, the proposed work would not detrimentally change, destroy or adversely affect any exterior feature of such local historic structure, local historic site, or contributing structure upon which said work is to be done;

2. In the case of the construction of a new improvement upon a local historic structure, local historic site, or a contributing structure, the exterior of such improvement would not adversely affect or be incompatible with the external appearance of other adjacent improvements on such local historic structure, local historic site or contributing structure;

3. In the case of any improvement made to a contributing structure, the proposed exterior historic preservation alteration shall conform to the purpose of this section and to the objectives and design criteria of the local historic preservation plan for the applicable local historic district.

b. Standards for granting Certificate of Appropriateness for demolition. In determining whether to approve or deny a Certificate of Appropriateness for any demolition of all or part of a local historic structure, a local historic site or a contributing structure, the Historic Preservation Commission shall approve the application if one (1) or more of the following can be demonstrated:

1. The local historic structure or local historic site or contributing structure is in such deteriorated condition that it is not economically feasible to renovate or restore it, provided that any economic hardship or difficulty claimed by the owner or owner’s agent has not been self-created or is not the result of any failure to maintain the local historic structure, local historic site or contributing structure in good repair.

2. The local historic structure, local historic site or contributing structure is of such local architectural or historical significance that its demolition would not be detrimental to the public interest and would not be contrary to the general welfare of the people of the city of Appleton and the state;

3. The denial of the demolition permit would result in the loss of reasonable and beneficial use of or economic return from the property.

(4) Review and decision by the Historic Preservation Commission. The Historic Preservation Commission, within twenty-five (25) business days from the date the Certificate of Appropriateness application was accepted by the Director, shall either approve or deny the application, unless the time is extended by agreement between the Historic Preservation Commission and the owner or owner’s agent in charge of the property.

(5) Appeals.

a. If the Historic Preservation Commission denies the Certificate of Appropriateness, the Historic Preservation Commission shall, at the request of the owner or person in charge of such property, work with the owner or owner’s agent in charge of such property in an attempt to obtain a Certificate of Appropriateness within the standards of this section.
b. In addition, if the Historic Preservation Commission denies the application for a Certificate of Appropriateness due to the proposal failing to conform to the standards for granting a Certificate of Appropriateness as identified in this section, the owner or owner’s agent may appeal such decision to the Community and Economic Development Committee.

1. The owner or owner’s agent in charge of such property shall file a written appeal specifying the grounds for such an appeal with the Director no later than thirty (30) days from the date of the decision of the Historic Preservation Commission. Failure by the owner or owner’s agent in charge of such property to file a written appeal in accordance with the abovementioned provisions shall be deemed to constitute a withdrawal of the application for a Certificate of Appropriateness.

2. After consideration of the appeal, the Community and Economic Development Committee, by majority vote may either affirm the decision of the Historic Preservation Commission or approve the issuance of the Certificate of Appropriateness, in which case the Director shall issue the Certificate of Appropriateness.

(6) Other permits and approvals. The approval of a Certificate of Appropriateness shall not relieve the property owner or owner’s agent from applying for and obtaining all necessary permits and approvals pursuant to the Municipal Code prior to the commencement of such proposed work.

(7) Violation; penalty. Failure to comply with the approved Certificate of Appropriateness or failure to obtain a Certificate of Appropriateness prior to the issuance of a building permit shall be a violation of this section. Administration and enforcement shall be as prescribed in the enforcement section of this chapter.

(o) Exempt work from Certificate of Appropriateness provisions. Historic preservation repairs not including painting, made to a local historic structure or local historic site or contributing structure may be undertaken without a Certificate of Appropriateness, provided the work involves repairs to existing exterior features of a local historic structure or local historic site, or the replacement of existing exterior features of a local historic structure, local historic site or contributing structure with like materials, and provided the work does not change the exterior appearance of the local historic structure, local historic site or contributing structure and does not require the issuance of a building permit.

(p) Procedure to rescind a local historic structure designation, local historic site designation and local historic district designation.

(1) Application process.

a. Rescind a local historic structure designation or local historic site designation. The property owner or owner’s agent in charge of a local historic structure or local historic site shall submit an application form to rescind a local historic structure designation or local historic site designation to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then filed with the City Clerk.

b. Rescind a local historic district designation. The majority (greater than fifty percent (50%)) of the property owners and/or owner’s agents in charge of a contributing structure shall submit an application form to rescind a local historic district designation and the applicable local historic preservation plan to the Community and Economic Development Department. After submittal and acceptance of a complete application through initial review by the Director, the complete application, which includes the written application and supporting materials are then filed with the City Clerk.

(2) Public Hearing at Historic Preservation Commission.

a. Notice of public hearing to rescind a local historic structure designation, local historic site designation, or local historic district designation and the applicable local historic preservation plan shall be given by a Class 2 newspaper notice. The notice of public hearing shall identify the purpose, date, time and place of the public hearing.
b. At least ten (10) days prior to such hearing, the Community and Economic Development Department shall notify the alderperson of the aldermanic district, owners of record, and owners of property in whole or in part situated within a one hundred (100) foot radius of the local historic structure, local historic site or local historic district, as listed in the Office of the City Assessor.

c. The Historic Preservation Commission shall then conduct such public hearing, and in addition to the notified persons, may hear expert witnesses and review records as it deems necessary.

\(3\) **Action by the Historic Preservation Commission.** After the close of the public hearing, the Historic Preservation Commission shall review the rescission criteria in subsection (p)(3)a.1., 2., 3., and 4. of this section and either recommend approval or denial of the proposed rescission to the Community and Economic Development Committee,

a. **Rescission Criteria.** Rescission can occur for any one (1) or more of the following:

1. The property owner has requested the designation to be rescinded for economic hardship or health reasons;

2. For the failure to adhere to the specific standards of the historic district in which the property is located;

3. For the failure to adhere to the specific standards of the zoning district the property is located; or

4. The designated historic structure, site or district no longer meets the criteria of designation or retains the integrity necessary for designation.

\(4\) **Action by the Community and Economic Development Committee.** After receiving and reviewing the report and recommendation of the Historic Preservation Commission, the Community and Economic Development Committee may either approve or deny the proposed application to rescind a local historic site designation, local historic structure designation or local historic district designation and the applicable local historic preservation plan, or refer the matter back to the Historic Preservation Commission. The Community and Economic Development Committee’s recommendation and report shall be forwarded to the Common Council who will make the final decision.

\(5\) **Action by the Common Council.**

a. After receiving and reviewing the report and recommendation of the Community and Economic Development Committee, the Common Council shall either approve, deny, or postpone the proposed application to rescind a local historic site designation, a local historic structure designation or a local historic district designation and the applicable local historic preservation plan, or refer the matter back to the Historic Preservation Commission.

b. The City Clerk shall send written notice of the action taken by the Common Council to the property owner(s) or owner’s agent, Community and Economic Development Department, Inspections Supervisor and the City Assessor.

(q) **Building permit.**

(1) No building permit shall be issued by the Division of Inspections for historic preservation alteration, demolition or removal of a nominated local historic structure, local historic site, or a structure identified as contributing to a nominated local historic district, from the initial meeting date when the Historic Preservation Commission has been presented with a nomination through the date of final disposition of the nomination by the Common Council. No building permit shall all be issued for the following reasons: historic preservation alteration, removal or demolition. An exception shall be permitted when historic preservation alteration, repair, removal or demolition is authorized by formal resolution of the Common Council as necessary for public health, welfare or safety. In no event shall the delay be for more than sixty (60) days.

(Ord 139-95, §1, 12-20-95, Ord 45-00, §1, 6-10-00; Ord 98-12, §1, 10-9-12)
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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.

ARTICLE XVIII. SMALL WIND ENERGY SYSTEMS.

Sec. 23-700. Small wind energy systems.

(a) **Purpose.** The purpose of this ordinance is to oversee the permitting of small wind energy systems and preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a small wind energy system (per Wis. Stat. §66.0401).

(b) **Definitions.** See §23-22 Definitions of this ordinance under “small wind energy systems”.

(c) **Development standards.** Small wind energy systems are accessory uses and shall be a special use in all residential districts and a permitted accessory use in all other zoning districts:

1. **Setbacks.** A wind tower for a small wind system shall be set back a distance equal to its total height from:

   a. Any right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the right-of-way. Such permission shall be in a form acceptable for recording in the county Register of Deeds office for the parcel on which the tower is located. A copy of the recorded form shall be provided to the City prior to building permit issuance.

   b. Any overhead utility lines, that are within the falling arc of the entire small wind energy system plus ten (10) feet unless written permission is granted by the affected utility. Such permission shall be in a form acceptable for recording in the county Register of Deeds office for the parcel on which the tower is located. A copy of the recorded form shall be provided to the City prior to building permit issuance.

   c. All property lines, unless written permission is granted from the affected land owner or neighbor. Such permission shall be in a form acceptable for recording in the county Register of Deeds office for the parcel on which the tower is located. A copy of the recorded form shall be provided to the City prior to building permit issuance.

2. **Access.**

   a. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

   b. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground.

3. **Electrical wires.** All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall not be suspended in the air.

4. **Lighting.** A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

5. **Appearance, color and finish.** The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless otherwise indicated in the building permit.

6. **Signs.** All signs, other than the manufacturer’s or installer’s identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system shall be prohibited.

7. **Code compliance.** A small wind energy system including tower shall comply with all applicable federal, state and/or local construction and electrical codes.

8. **Utility notification and interconnection.** Small wind energy systems that connect to the electrical utility shall comply with the Public Service Commission of Wisconsin’s Rule 119, “Rules for Interconnecting Distributed Generation Facilities.”

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(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)
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ARTICLE XIX. SHORELAND ZONING

Sec. 23-750. Statutory authorization.

(a) This ordinance is adopted pursuant to the authorizations in §62.233 of the Wisconsin Statutes for villages and cities.

(b) The Appleton Common Council determines that uncontrolled development and use of the shorelands of this municipality would impair the public health, safety, convenience, general welfare and tax base.

Sec. 23-751. Definitions.

As used in this article of the zoning ordinance, the following terms shall have the meanings indicated:

Navigable waters means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under s. 281.31(2)(d) Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder shoreland ordinances required under s. 59.692, Stats., and this chapter do not apply to lands adjacent to farm drainage ditches if:

(a) Such lands are not adjacent to a natural navigable stream or river;

(b) Those parts of such drainage ditches adjacent to such lands were nonnavigable streams before ditching or had no previous stream history; and

(c) Such lands are maintained in nonstructural agricultural use.

Ordinary high-water mark means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.

Principal building means a building which contains the primary use of the lot, as contrasted to accessory structure, building or use. In any residential zone a dwelling shall be deemed to be the principal building on the lot.

Shorelands has the meaning given in §59.692(1)(b) of the Wisconsin Statutes.

Shoreland setback area has the meaning given in §59.692(1)(bn).

Shoreland zoning district means a zoning district comprised of shorelands that are subject to the provisions of Sec. 23-752.

Sec. 23-752. Jurisdiction.

The jurisdiction of this chapter shall include all the shorelands of the City which are:

(a) Within 1,000 feet of the ordinary high water mark of navigable lakes, ponds or flowages. Lakes, ponds, or flowages in the City shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources’ publication “Surface Water Resources of Outagamie County” or shown on U.S. Geological Survey Quadrangle maps. If evidence to the contrary is presented, the Director of Public Works shall make the initial determination whether or not the lake, pond, or flowage in question is navigable under the laws of the State. The Director of Public Works shall also make the initial determination of the location of the Ordinary High Water Mark.

(b) Within 300 feet of the ordinary high water mark of navigable rivers or streams. For the purposes of this subsection, rivers and streams in the City shall be presumed to be navigable if they are designated under one of the following categories on the Official Shoreland Zoning District Map:

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(1) Navigable Stream

(2) Probable Navigable Stream

(3) Probable Non-Navigable Stream

If evidence is presented that the stream is Non-Navigable, then the Director of Public Works shall make the initial determination of whether or not the stream is navigable under the laws of the State. The Director of Public Works shall also make the initial determination of the location of the Ordinary High Water Mark.

Sec. 23.753. Shoreland zoning district boundaries.

The Official Shoreland Zoning District Map is hereby adopted and made part of this chapter. The boundaries of the shorelands shall be depicted on this map as defined in Section 23-751. Copies of the map shall be available for public viewing in the Department of Public Works.

Sec. 23-754. Requirements.

(a) There shall be established a shoreland setback area of at least fifty (50) feet from the ordinary high water mark (this could be greater than fifty (50) feet).

(b) The principal building may be constructed or placed within the shoreland area if all of the following apply:

(1) The principal building is constructed or placed on a lot or parcel of land that is immediately adjacent on each side to a lot or parcel of land containing a principal building.

(2) The principal building is constructed or placed within a distance equal to the average setback of the principal building on the adjacent lots or thirty-five (35) feet from the ordinary high water mark, whichever distance is greater.

(c) A person who owns shoreland property that contains vegetation, shall maintain that vegetation in a vegetative buffer zone along the entire shoreline of the property and extending thirty-five (35) inland from the ordinary high water mark of a navigable water, except as provided in subsection (2).

(d) If the vegetation in a vegetative buffer zone contains invasive species or dead or diseased vegetation the owner of the shoreland property may remove the vegetation, except that if the owner removes all of the vegetation in the vegetative buffer zone, the owner shall establish a vegetative buffer zone with new vegetation.

(e) The person who is required to maintain or establish a vegetative buffer zone under paragraph (c) above, may remove all of the vegetation in a part of that zone in order to establish a viewing or access corridor that is no more than thirty (30) feet wide for every one hundred (100) feet of shoreland frontage and that extends no more than thirty-five (35) feet inland from the ordinary high water mark.

Sec. 23-755. Zoning agency.

(a) The Director of Public Works shall:

(1) Review and advise the governing body on all proposed amendments to this article, maps and text.

(b) This Director of Public Works shall not

(1) Grant variances to the terms of the ordinance in place of action by the Board of Appeals; or

(2) Amend the text or zoning maps in place of official action by the governing body.
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Sec. 23-756. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the city and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this chapter is required by a standard in Wis. Admin. Code ch. NR 115 and where the meaning of the chapter provision is unclear, the provision shall be interpreted in light of the Wis. Admin. Code ch. NR 115 standards in effect on the date of the adoption of the ordinance from which this chapter is derived or in effect on the date of the most recent text amendment to this chapter.


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)